

**The Hon'ble Mr. Madge :** " Agreeing as I do with the inopportune character of this Resolution, I should have taken no part in the discussion but for the entire omission to note a fact which ought to be kept in mind in all discussions on income-tax in this country. There is in it, working side by side, a higher and a lower standard of living, call it foreign and indigenous, European and Indian, or what you will. Leaving these adjectives to adjust themselves, I would call attention to the fact that there is a class of people here who are obliged to adopt the higher standard of living in order to preserve the decencies of life, but whose means are growing smaller from year to year from causes to which I need not refer on the present occasion. For them both the income-tax and a number of other burdens are exceedingly severe. If I am unable to vote for this Resolution, it is because, after thinking over the matter for a long time, I do not see how an increasing minority can be relieved in a scientific way; but I do hope that the Hon'ble Finance Member will keep this matter in mind in times to come, so that those who are compelled on very small incomes to preserve the decencies of life under a higher standard of living may be relieved as far as possible."

**The Hon'ble Sir Guy Fleetwood Wilson :** " My Lord, my Hon'ble friends Mr. Subba Rao and Mr. Gokhale and others—and I should like for a moment to pay a tribute to the remarkably able exposition of a new Member, Mr. Muhammad Shafi—have I think dealt so successfully with the Resolution of my Hon'ble friend Mr. Dadabhoi that there is not really very much for me to say. But I hope that my Hon'ble friend will not consider me lacking in courtesy, nor unmindful of the importance of the Resolution which he has moved, if I answer him with some brevity; I hope also that he will not take it ill if I point out that the Hon'ble Member, whose remarks are always entitled to consideration and respect, appears to me to be drifting into a remarkably illogical attitude. Last year he attacked the cotton-duties; this year he assails the income-tax. If he had his way, our revenues would apparently continually diminish, whilst the claims upon them, which he concurrently presses, would steadily increase.

" There can be but one logical and practical outcome of such a policy if carried into effect. It would land us in bankruptcy.

" I cannot undertake to follow the Hon'ble Member or his supporter over the ground which they have traversed in regard to the increased cost of living, owing to the rise in prices.

" It is not certain what the precise effect or extent of the rise in prices has been. An enquiry into the question is in progress, and until the report has been received and considered the Government of India are unable to accept any particular figures such as those given by the Hon'ble Mr. Dadabhoi or any particular deductions which may be drawn from them.

" I may point out however, for what it is worth, that if the increase in the cost of living means a decrease in the purchasing power of a given income, it likewise means, in the same way, a decrease in the purchasing power of the amount paid in the tax.

" I may also observe that it is hardly accurate to say that the income-tax is not favoured in many countries in Europe and America. It is not unlikely that in America a federal income-tax would have been introduced long ago had it not been for technical difficulties connected with the Constitution. There is no federal income-tax, but there are local income-taxes to be found in the States. Some European countries have heavy income-taxes. If I rightly remember, the present British Chancellor of the Exchequer called the income-tax the centre and sheet anchor of the British financial system.

" I may remark that to raise the assessable minimum income for income-tax from Rs. 1,000 to Rs. 1,500 would mean a loss to the revenue, taking the figures of 1909-10, of approximately 29½ lakhs. This is nearly 12½ per cent. of the whole proceeds of the income-tax. I think that all will agree that this is not the time to sacrifice such an important slice of our revenue.



"If anything, the question that arises is, whether the old minimum of 500 rupees, which was in force up to 1903, might not be reverted to. I do not advocate such reversion at the present moment, but it appears to me to have as much in its favour as the proposal of my Hon'ble friend opposite.

"The class to which the proposal would afford the suggested relief consists largely of the very people who are least entitled to relief in the interest of the general tax-payer. The relief would principally affect the assessee under Part IV of the Income-tax Act, in Schedule II, and it is, I am afraid, notorious that such assessee are lightly assessed compared with those under other Parts of the Income-tax Act.

"The income-tax at present presses lightly on the people. It hardly touches more than 11 in 10,000. In the United Kingdom the proportion is 220 in 10,000, and it must be remembered that agricultural incomes pay the tax. In India the proportion in some rural districts is so low as one in 1,949.

"I was not able to follow what point my Hon'ble friend was making out of his figures, but I think there is one small point of detail on which my Hon'ble friends seem to be under a slight misapprehension. The abatements in certain European countries for the sake of children and dependents are, I believe, anti-Malthusian in their purpose. No similar encouragement to large families has yet been demanded as a part of our fiscal policy in India.

"I should like to give the minimum limits in several countries in Europe. In continental countries the minimum assessable limit is generally very much lower than in India, though I think it will be agreed that the scales of income are distinctly higher. In Prussia it is £45; in Wurtemberg, Saxony, Baden, Hesse, these vary from 25 to 45 pounds; in Austria it is £50; in Sweden it is £24½; in Norway £18; in Denmark £33 to £44; in Holland it is as high as £54; in Italy it comes to £16 to £32, with no exemption for pure property income; and in Spain it varies from £31 to £45.

"On the whole, I believe that the Council will think the Government of India are acting wisely and in the best interests of the community at large in refusing to accept the Resolution of the Hon'ble Member; and accordingly I have to state that we are not able to accept that Resolution."

**The Hon'ble Mr. Dadabhoy:** "My Lord, with the very extensive programme of legislative work before us this afternoon, I feel I cannot detain this Council much longer than is absolutely necessary, but at the same time I feel it my duty to reply to a few observations that have fallen from Hon'ble Members. To my great surprise, I have heard it repeated by four or five Members—and what struck me most was that that statement was repeated by the Hon'ble Finance Minister—that this was the most inopportune time for moving this Resolution. My Lord, I fail to see what is the exact psychological moment when a Member of this Council can bring up a Resolution for the reduction of taxation. If it is brought up at some other period, it will be confronted with the same argument that that is the most inopportune time and the state of the finances of the country will not permit of a reduction. I therefore most respectfully submit that there is very little of value in this contention. My friend the Hon'ble Mr. Subba Rao started the debate with opposing the motion. He has pointed out very correctly to this Council that the Conferences held in different parts of the country from time to time and the Congress itself have not suggested this matter of a further reduction of the income-tax. I am sorry that he brought into the discussion the deliberations of these bodies. But I know as much as my Hon'ble friend, and he would have admitted it if he had been a little more candid as to why this matter has not been taken up by these Conferences. There is, I may say, a general belief that the income-tax is the only tax which the Europeans pay, and that by a remission a large section of this class would be exempt from taxation; and it is that very reason mostly which has actuated those public bodies from not touching it.

"I congratulate my friend the Hon'ble Mr. Muhammad Shafi for having distinguished his maiden speech by opposing a very popular measure. I have listened with interest to his speech as well as to his arguments.

"There are two main arguments that have been brought forward to-day against the Resolution, and they are that by a remission of this taxation the masses will not be benefited, and that the very people who will be benefited by this Resolution do not pay any other taxes. Now the first of these arguments raises a false and an altogether irrelevant issue. We are not at present concerned with any large scheme of financial relief, so that we may take into consideration the relative merits of the various forms of taxation. It is not as if it were the case that the Government of India had found a permanent source of increased revenue and wished to distribute the surplus equitably and properly, and therefore remission in this or that direction should be first started. That is beside the question, and that point does not legitimately enter into the controversy. The miserable life of the rural population and the agriculturist has also been referred to. I should be the first, my Lord, to welcome any scheme and support any reasonable proposal for financial relief to the agricultural classes; but because relief cannot be given to the humble villager, it does not follow as a natural consequence that no other class should have a reasonable consideration shown to them. The statement that the rural population, as Mr. Gokhale argued, pays more into the Treasury in the way of taxes than the urban population, is also extraneous to the present question. The proposition is by no means well-established. Land yields, no doubt, the largest portion of our revenue, and the incidence of the taxation falls heavily upon all persons dependent upon it; but the view that the taxes upon land which the agriculturist has to pay form part of the cost of production and the agricultural produce which is covered by its price, at least raises debateable points. These taxes are a revenue charge and not a capital charge, and in discussing their ultimate influence upon village life, various circumstances will have to be considered.

"My Lord, I anticipated opposition to this Resolution; but I brought it forward because I firmly believe that it is by constantly bringing forward the needs of a deserving class of people that the Government will see their way to afford relief. I have no doubt that the Resolution will be lost; but despite what has fallen from my Hon'ble friend the Finance Minister, I have no doubt that before long the entire scheme of income-tax will undergo a most careful revision. With these words I commend my Resolution to the Council."

The Resolution was put and rejected.

#### INDIAN STAMP (AMENDMENT) BILL.

**The Hon'ble Sir G. Fleetwood Wilson:** "My Lord, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Stamp Act, 1899. The only amendment is shown in italics on the Bill, and I do not propose to make any remarks at this stage."

#### INDIAN LUNACY BILL.

**The Hon'ble Mr. Syed Ali Imam:** "My Lord, I beg to move that the Hon'ble Sir Reginald Craddock be added to the Select Committee appointed to report on the Bill to consolidate and amend the law relating to lunacy."

The motion was put and agreed to.

#### DELEGATION BILL.

**The Hon'ble Mr. Syed Ali Imam:** "I beg to move that the Hon'ble Sir Reginald Craddock, the Hon'ble Mr. Dadabhoy, the Hon'ble Mr. Saunders and the Hon'ble Mr. Wheeler be added to the Select Committee appointed to report on the Bill to provide for the delegation of executive powers and duties in certain cases."

The motion was put and agreed to.



## CO-OPERATIVE SOCIETIES BILL.

**The Hon'ble Sir Robert Carlyle:** "My Lord, I beg to present the Report of the Select Committee on the Bill to amend the law relating to co-operative societies. I propose to discuss the Bill to amend the law on another day."

## INDIAN POST OFFICE (AMENDMENT) BILL.

**The Hon'ble Mr. Clark:** "My Lord, I beg to present the Report of the Select Committee on the Bill to amend the Indian Post Office Act, 1898. Only two amendments of any importance have been made in this Bill. The first is the omission of clause 2 of the Bill which gave the Post Office power to charge special rates for parcels in certain localities. The second is in regard to clause 3 of the Bill as introduced which gave the Post Office power to charge fees for inquiries. The general power was objected to and it was decided to restrict it to value-payable articles."

## WHITE PHOSPHORUS MATCHES PROHIBITION BILL.

**The Hon'ble Mr. Clark:** "My Lord, I beg to present the Report of the Select Committee on the Bill to prohibit the importation, manufacture and sale of matches made with white phosphorus. Only one trifling alteration has been made in this Bill, namely, that the date of its coming into operation has been postponed for six months."

## INCHCAPE CONFERENCE.

**The Hon'ble Mr. Gokhale:** "My Lord, I beg to move—

that this Council recommends to the Governor General in Council that all papers and correspondence relating to the appointment of Lord Inchcape to conduct his present inquiry into the Railway Administration of India, which may be in the possession of the Government of India, be laid on the table of the Council.

"Hon'ble Members have no doubt read in the papers that last month an inquiry was held here into certain matters connected with the Railway Administration of this country by Lord Inchcape, with the assistance of a Conference attended by the Chairman of the Railway Board and other officers of Government on the one hand and by the Agents and some of the Directors of the several railway companies on the other hand. Now there are several points connected with this inquiry which appear to be shrouded in obscurity and need clearing up, and my object in bringing this question before the Council today is to invite the Government to throw what light they can on those points. One unfortunate circumstance connected with this affair is that the public have been left to pick up what information they could entirely from unofficial sources, from articles and paragraphs in newspapers. From beginning to end there has been absolutely no official statement of any kind on the subject. Towards the end of last year, a paragraph went the round of the Press, and that was the first intimation we had of this inquiry, that Lord Inchcape was coming out to India this cold weather to look into certain matters that had arisen between the Railway Board and the Railway Companies. As, however, there was no official announcement of the appointment, many of us naturally thought that the paragraph only represented an attempt on the part of some clever journalist to anticipate events, intelligently or otherwise. At the beginning of this year, however, we were told, again by the newspapers, that Lord Inchcape had actually arrived, and later on that he had set about making arrangements to hold his inquiry. Then we saw—this too in the papers—that a Conference was held, to which I have already referred—a Conference at which the Hon'ble Mr. Clark was present as an interested visitor and which was attended by the Hon'ble Sir James Meston with a sort of a watching brief on behalf of the Finance Department. Finally, my Lord, we learnt yesterday from the newspapers that Lord Inchcape

had completed his labours and was going to submit his report to the Secretary of State by last evening's mail. Now the first question that arises in this connection is, why was no official statement even made at any stage of these proceedings on this subject? Government very rightly issue Press notes now on many matters, either to supply information or to remove misapprehensions. Only the other day a Press communiqué was issued by the Education Department, correcting a mis-statement that had found its way into the columns of the papers that out of the 50 lakhs of Imperial grant to Education announced at Delhi, 12 lakhs had been assigned to Bombay. If it was thought necessary to set right a mis-statement of that comparatively minor character by means of a Press communiqué, I really do not understand why no Press communiqué was ever issued on this subject of Lord Inchcape's inquiry. It cannot be said that there was no adverse criticism on the subject in the Press. So far from that being the case, many Indian newspapers, and at least two Anglo-Indian papers, the *Indian Daily News* of Calcutta and the *Times of India* of Bombay, had passed very strong criticism on the whole proceeding, the criticism of the *Times of India* being the most direct and the most powerful. My first question, therefore, is, why was no official statement of any kind issued at any time on the subject so as to prevent or remove misapprehensions in the public mind? My second question is, what was exactly Lord Inchcape's position in this inquiry? It has been suggested—I have seen it in the papers, I think it was in the *Indian Daily News*—that Lord Inchcape had come out to this country as a sort of a plenipotentiary from the Secretary of State; and the *Times of India* spoke of Lord Inchcape's 'mission' in connection with railway matters. The impression left on my mind, after carefully reading what has appeared in the papers, is that Lord Inchcape undoubtedly came with a large and undefined discretion, the terms of reference not being fixed and the scope of inquiry not being settled beforehand. Now I want to know if this is true, and, if so, whether any representation was made by the Government of India to the Secretary of State in regard to this matter. The next question that arises is, if Lord Inchcape really came out like this with an unfettered discretion, what was the position of the Government of India in the matter? No one recognises more than I do the importance and necessity of Parliamentary control over Indian affairs, and that control, we all see, can be exercised only through the Minister who is responsible to Parliament for India. And no one questions the Secretary of State's competence to order an inquiry in regard to any affair connected with the administration of India. What I contend, however, is that such inquiry must be through the regular channel. If a Royal Commission is appointed, the Commission would necessarily report to the King; but if a Committee is appointed or an individual deputed to make any inquiry, it is only right and proper that the report of such a Committee or individual should be submitted through the Government of India. If what we have read in the papers be true, namely, that the report of Lord Inchcape has been sent direct to the Secretary of State, I wish to ask why this clearly irregular procedure has been adopted; also if there has been any protest against this on the part of the Government of India as a whole,—for the procedure adopted is calculated to lower the Government of India in the eyes of the people,—or on the part of the Industry and Commerce Department, or on the part of the Finance Department. I can call to mind three instances where individual experts selected by the Secretary of State came out to this country to advise the Government. But they were appointed either at the instance of the Government of India or in consultation with that Government. Thus Sir Hamilton Frere-Smith came out to inquire into the condition of factories; Mr. Robertson came out to inquire into our Railway administration; and Mr. Newlands came out to enquire into the working of the Telegraphs. But in all these cases, though the appointment was made by the Secretary of State, it was made either at the instance of, or in consultation with, the Government of India; and these individual experts submitted the results of their inquiry to the Government of India in the first instance, which the Government of India then forwarded to the Secretary of State, as they always do in all important matters. I believe the forthcoming



inquiry by Sir William Nicholson's Committee will also proceed on similar lines, and the report will be submitted through the Government of India and not to the Secretary of State direct. If the Secretary of State is to send out an officer of his own or a private individual—and Lord Inchcape is only a private individual now—to make an inquiry into matters of administration, independently of the Government of India, and if the results of such inquiry are to be communicated direct to him, I must say that this would be a dangerous innovation, opening the door wide to serious complications, and unless a protest is made in time both by the Government of India and by this Council against proceedings of this character, I am not sure that harm—and serious harm—will not be done in future even if no harm has been done in the present case.

“My Lord, there is one more point in this connection, about which I wish to say a word. It is a matter of common knowledge that the relations between the Railway Board and the Railway Companies have not been very smooth for the past two or three years, because the Railway Board has tried to tighten its control over the Railway Companies mainly in connection with the growth of working expenses. Well, the Railway Board in its turn has responded to pressure put upon it, first, by the Finance Department, and, secondly, by the criticisms that have been offered here by non-official Members in the matter. I rejoice that the Railway Board is now exercising a firmer control over the companies, and I earnestly hope that it will become even more stringent in the future. If, however, such control is felt to be a grievance by the Companies, the proper way to deal with the grievance is to order a regular inquiry into it. One cannot help thinking—and I base myself only on what has appeared in the papers—that the powerful Railway Companies, with their influential Directorates, and their comparatively easy access to the Secretary of State in London, have succeeded in inducing the India Office authorities to send out Lord Inchcape so that matters might be made easier for them. Of course I have no official authority for making this statement, because nothing is known authoritatively, but this is the impression left on my mind by all that has appeared in the papers on the subject. Now in a matter of this kind, it is not the interests of the Companies only that have to be considered, but the interests of the taxpayers also must be taken into account, and the interests of the taxpayers are represented in this controversy first by the Finance Department and next by the Railway Board. Moreover, it cannot be said that Lord Inchcape is an expert in matters of railway administration. As a matter of fact, in that respect we have at the head of the Railway Board a gentleman, with almost ideal qualifications, one who was an Agent of an important railway and is now a trusted officer of Government responsible for spending its money economically. However, whatever may be thought of the necessity of inquiring into the matters at issue between the Railway Board and the Railway Companies, I feel bound to say that such inquiry should not have been entrusted to Lord Inchcape. My Lord, I refer to this aspect of the question, because an important point of principle is involved in it. Lord Inchcape is the senior partner of a big commercial house in this country, having extensive dealings with Railway Companies. Of course everybody has the highest respect for his Lordship personally; after a most distinguished career as a business man in India, he retired to England, and there he was for a number of years a member of the Secretary of State's Council; he has served the State in various capacities with conspicuous ability, and his services have raised him to his present eminent position. No one will for a moment suggest that such a man is likely to be influenced in the recommendations that he would make by his business relations with Railway Companies; but there is such a thing as an unconscious bias from which even the most eminent of men are not free, and it is casting no reflection on Lord Inchcape to say that, as a great business man, he is apt to be more impressed by the importance of increased railway expenditure and the difficulties of Railway Companies than by the necessity for those safeguards which have been devised by the Finance Department and by the Railway Board to ensure economic administration. If his recommendations, therefore, result either in relaxing the control of the Railway Board over the growth of working expenses or in increasing the

annual budget of Capital expenditure on railways, this Council will certainly have very serious cause for complaint. There is thus room for very real anxiety in the public mind as to what the whole of this proceeding will lead to, and I have brought this motion before the Council in the hope that papers will be laid on the table and all doubts cleared up in the matter."

**The Hon'ble Mr. Mudholkar :** " My Lord, I rise to support the Resolution moved by my friend the Hon'ble Mr. Gokhale. Hon'ble Members must have seen from the Agenda paper that I proposed to put certain questions in regard to the origin, scope, constitution and methods of the inquiry which Lord Inchcape was deputed to make. These questions were sent so far back as the 6th of January, but I believe that as they could not be put before Council unless there was ten days' clear notice, they were not included in the Agenda paper of the 10th January. Since my questions were communicated to the Legislative Department, two things have happened. One is that the Inchcape Committee has held its sittings and finished its labours. Indeed, we are informed that its report has been sent by the mail of yesterday direct to the Secretary of State. Another thing that has happened is that Mr. Gokhale gave notice of the Resolution he has just moved; and I saw in the Agenda list which I got two days back that it was put down for discussion and consideration to-day. In these circumstances, it seemed to me that the object I had in view would be better attained if I withdrew my questions and, in speaking on the Resolution, urged what I had to say about the extraordinary character of the procedure followed in regard to this Committee. In saying what I do, I am only giving voice in this Council to the complaints of the public and to the extreme dissatisfaction with which the appointment, constitution and proceedings of this Committee have been regarded by men of all classes in the country. It has roused indignation and alarm; and the silence which has been observed on the subject and the secrecy in which the whole thing is shrouded have intensified popular dissatisfaction. The public, my Lord, have every right to complain. The railways are amongst the most valuable concerns of this country; and it has every right to say that, on such important matters, there should be no deliberations in camera, that no discussion of policy, means or procedure should be conducted without a due representation of the people and that persons qualified to speak are heard. In the case of this Committee, the general bewilderment has been increased by the conflicting statements which have been put forward at different times. We were told in the beginning that Lord Inchcape's mission was in connection with the complaints of Railway Companies about the control exercised over them by the Railway Board in regard to expenditure. We were also told that Lord Inchcape was sent out because of the failure of the Government of India and the Railway Board to comply with the recommendations of the Committee on Indian Railway Finance and Administration, over which he, as Sir James Mackay, presided four years ago. Now there can be no two opinions that both these subjects are of the gravest importance. Yesterday, however, we were told that there was a considerable misunderstanding in the whole affair, and that Lord Inchcape only came as a sort of a conciliator and advisor in regard to certain difficulties which have arisen between the Railway Companies and the Railway Board, and between different Railway Companies, and that it was after all rather matters in the nature of details with which he had to deal. It is difficult to reconcile these statements. And in regard to the second, the first thing that strikes one is its belated character. If the scope of the Mission was of such a limited character and so harmless, why was it not so stated at the very beginning? Why were not the terms of reference published? What harm was there in conducting the inquiry publicly? Another thing to be noted is that the version which assigned a large scope to this Committee not only held the field unchallenged for several weeks, but derived considerable support from quarters presumably well-informed. There is, first of all, a special article in the *London Times* of the 5th December. Then at the half-yearly meeting of the Great Indian Peninsula Railway held about the same time, the Chairman, Colonel Firebrace, referred to 'the drastic orders of the Government of India issued



in 1909 under which they were compelled to reduce expenditure so far as possible in anticipation of diminished earnings in the Indian Budget. These orders coupled with others also practically took away from the London Boards of the Indian Railway Companies most of the powers with which the Secretary of State for India had only shortly before invested them. In common with the other Companies, they had strongly protested against these orders with the result that the Secretary of State for India had arranged for a Conference to be assembled at Calcutta at which the various Chairmen of the railways were invited to be present.' Remarks of a similar character were made at the half-yearly meeting held in December by the Bombay, Baroda and Central India Railway and the East Indian Railway Companies also. People, therefore, still refused to believe in this belated protestation of the Conference being 'a wee little thing.'

"There is an impression, my Lord, that the Committee was appointed by the Secretary of State at the request of the Companies, and not on the recommendation or initiation of the Government of India or even with their co-operation. We are unable to say how far this impression is correct. I am only giving voice to the impression which exists in the country. It is clear that the Government of India had no hand in the composition of the Committee. The Committee is not to report to the Government of India but direct to the Secretary of State. There arise, under these circumstances, my Lord, certain grave constitutional issues. Is it right on principle that the Secretary of State should, on the complaint of some body in England, appoint, without reference to the Government of India, a Committee of this kind to investigate into the complaints against the control exercised by the Railway Board? Was not the proper course to ask these Companies to put in their complaints and to send these complaints on to the Government of India for the whole Council to deal with them in the presence of both the sides? The Government of India consists of the Governor-General and the Members of Council, and they were certainly competent to consider whether the Railway Board were exercising an unjustifiable control. If the decision of the Government of India was unpalatable to these Companies, there was another remedy open. They could have taken the matter, as it were, by way of appeal, to the India Council, and there a similar procedure could have been followed. If it appeared to the Secretary of State that an independent Committee should be appointed, the proper method would have been to suggest the course to the Government of India. By the letter of the law it is true the Secretary of State possesses the chief power. But usage, public convenience and official etiquette demand that he should not interfere in matters in which the Government of India can grant redress or take action.

"Secondly, the terms of reference should have been published. The secrecy which has been observed was utterly uncalled for, and it was highly unsound and wrong in principle.

"Thirdly, the Committee should have included representatives of the Indian community and of the different great interests which exist in this country.

"Fourthly, the inquiry ought to have been made publicly, and evidence of experts and informed persons invited.

"The question of railway expenditure is one in which the country is deeply interested. In some recent years the working expenses over most of the railway lines had increased alarmingly, the increase being in some cases as high as 10 to 15 per cent. Instead of showing any net gain, there was a net loss on State Railways of 190 lakhs in 1908 and of 43 lakhs on guaranteed lines. The Railway Board were, under these circumstances, morally justified in exercising their power of control. They have done a most valuable duty to the public, and instead of being blamed they deserve our thanks and our gratitude. There is another aspect of the matter also which has to be considered, my Lord, and that is in regard to what is called the expenditure on capital account not being raised to the extent proposed by the Mackay Committee. Now, the Government of India have during the last six years

which ended with 1910-11 extended railway communications by no less than 4,000 miles. That cannot be considered at all a slow pace of progress. It is to be remembered that in regard to capital expenditure there are limits to safe borrowing, and the Government of India and the Secretary of State's Council certainly had the interests of the country in the advancement of railway communications fully in view. And again, if there was any matter on which the Secretary of State wanted information, the proper procedure would have been to appoint a Committee in consultation and in co-operation with the Government of India. Increase of the railway debt means also a further increase of taxation on the people, and that is a matter in which the people have great interest, and it is very curious that in a matter in which the people are interested, whether we look to the working expenses side of the question or that in regard to capital outlays, the people were given absolutely no information at all of what was being done.

"My Lord, I consider that the procedure which has been followed is not calculated to smooth the working of the administration or to enable this Council to discharge the duties which fall to it, and I therefore support Mr. Gokhale's motion for laying on the table the papers on the subject."

**The Hon'ble Sir Vithaldas D. Thackersey :** "My Lord, I support the Resolution that has been moved by my Honble friend Mr. Gokhale. One thing, I think, we should very clearly bear in mind, and that is that in such matters this Council ought to stand up for the dignity of the Government of India. But there are other reasons why, my Lord, I am supporting this Resolution. I intend to bring forward shortly, perhaps within a day or two, a Resolution on the railway policy of the Government of India. When it was reported in the papers that Lord Inchcape was coming, it naturally occurred to me to find out why he was coming, or whether the Indian commercial community would get an opportunity of discussing its several grievances when this Committee is sitting. Enquiries were made and Government officers naturally refused to give any information. We could get some information from the Press, but all we could get was that he was coming; and at one place it was reported that even the Secretary of State's Despatch to the Government of India on this subject came just about the time he was going to arrive. I do not know how far this is true, but it was reported. My Lord, we have been waiting for a proper Committee of inquiry. I must not anticipate my own speech in support of my intended railway Resolution, but the principal grievance is that by the present policy of the Railway Administration in fixing rates the Indian industries are placed at a disadvantage in competition with foreign articles imported. I had long talks with the Chairman of the Railway Board, the Hon'ble Sir T. R. Wynne, who takes keen interest in these matters; but he could give me no better explanation than that the Railway Board had no control over the railways when the rates were fixed within the maximum and the minimum allowed. My Lord, if, as has been reported, Lord Inchcape came here to lessen the control of the Railway Board, I think we all feel that the time has come for greater control by the Railway Board, in the interests of Indian industries and Indian commerce. After all, my Lord, when we look into the contracts of the Railway Companies, what do we find? Considerably over 80 per cent. of the capital is either guaranteed or supplied by the revenues of India; less than 20 per cent. belong to the Railway Companies. And more, their interest in the net profits of Indian railways is limited to 5 per cent. of the income over and above the minimum fixed, while the interest of the Government of India is 95 per cent. Are we to believe that the Railway Board, as representing the Government of India, should lessen the control when our interest is 95 per cent., and leave the control in the hands of those who have the interests of only 5 per cent? For these reasons, my Lord, I support this motion."

**The Hon'ble Sir Cecil Graham :** "My Lord, in the absence of knowledge as to what the scope of this Committee was, it is very hard for me to take up any definite attitude on this Resolution. But what I really want to do is to dissociate the European commercial community from the remarks which fell



from the Hon'ble Mr. Mudholkar when he said that there was general dissatisfaction and indignation at this Committee ever being appointed. I think that until we know further what the Committee's powers were and what it had to report on, it is impossible for us to take up any position one way or another, either objecting or otherwise; but I am perfectly certain that the commercial community which I represent are fully confident that any report made by the Committee presided over by Lord Inchcape must be a most business-like and impartial one."

**The Hon'ble Mr. Clark:** "I must confess, my Lord, that I have been a good deal puzzled at the amount of conjecture which this Conference over which Lord Inchcape has recently presided has given rise to, but the wording of the Resolution which has been put down to-day to some extent explains it. The Hon'ble Member speaks of the appointment of Lord Inchcape's Committee 'to conduct his present inquiry into railway administration in India,' and the Hon'ble Mr. Mudholkar in the question which he put down on the same subject uses practically the same language. Now, I quite agree that if Lord Inchcape had come out here to conduct so large a matter as an inquiry into the whole railway administration of this country, and no official explanation whatever had been given, that would have been a very extraordinary thing, and Hon'ble Members would have had a very good reason for pressing Government on the subject. But nothing of the kind has been done. There has been no Committee, consequently there have been no terms of reference, and there has been no inquiry of any sort at all. I can explain the matter in a very few words: it is a very simple one. Certain questions were outstanding between the Railway Board and the Railway Companies. It seemed better to the Secretary of State that these questions should be dealt with by a Conference rather than by correspondence which is apt to be prolonged. Hon'ble Members know that the Agents of the Companies here are only Agents of their Directors at home, and correspondence consequently is a long business involving constant references to London. The Secretary of State therefore thought that these matters should be discussed by a Conference in India. Lord Inchcape was coming out to India in any case this cold weather, I believe, and it was arranged that he should act as Chairman of this Conference. The Conference consisted, as the Hon'ble Members have said, of several Chairmen of the Companies and of the Railway Board. The Conference met, and discussed the subjects at issue with entirely satisfactory results. The Conference was of an entirely informal nature, and the Government of India do not think it necessary to lay any papers on the subject upon the table of the House. The Hon'ble Mr. Gokhale has complained that we did not think it necessary to correct various reports in the papers. I would point out that if we are to correct all the remarks that get into the papers, there will be no end to it, and the Government of India would place itself in this position, that should anything appear in the papers which is not accurate and which it does not correct, it would be immediately open to attack, as we have been to-day, for not doing so. I would also point out that the Hon'ble Mr. Mudholkar, as he told us himself, put down a question on the subject quite early in January, and it seemed far better that any explanations that were required should first be conveyed in this manner to Hon'ble Members in this Council."

**The Hon'ble Mr. Gokhale:** My Lord, it may appear strange to this Council that while a Member of the Government of India is prepared to—I won't use the word 'condone,' but I will say accept—what has been done by the Secretary of State in this matter, non-official Members should stand up and urge the view that the proceeding detracts from the dignity and the position of the Government of India. But the Hon'ble Mr. Clark has carefully evaded the direct issues which I had put to him. What I wanted to know was—was the Government of India consulted before Lord Inchcape was appointed? Did the Government of India agree to the inquiry being conducted by Lord Inchcape in the manner he did? And are the Government of India prepared to accept the position that the Secretary of State may send out anybody he likes to make an inquiry independently of the Government of India and to

send a report to him behind the back of the Government of India? Of course, a report, submitted to the Government of India, must go to the Secretary of State in the case of such inquiries before final orders are passed. But that is another matter. What I object to is the report going direct to the Secretary of State, for practically it means that the whole inquiry is independent of the Government of India. If the Hon'ble Member is prepared to accept such a position for the Government, of which he is a member, all I can say is that that is not the position which the Government of India should hold in these matters. As the purpose of my motion has not been met by the answer that the Hon'ble Member has given, I must press for the Resolution being put to the vote."

The Council divided :—

*Ayes—19.*

The Hon'ble Pandit Madan Mohan Malaviya, the Hon'ble Nawab Abdul Majid, the Hon'ble Maulvi Syed Shams-ul-Huda, the Hon'ble Raja Pramada Nath Ray of Dighapatia, the Hon'ble Maharajadhiraja Bahadur of Burdwan, the Hon'ble Babu Bhupendranath Basu, the Hon'ble Mr. Sachchidananda Sinha, the Hon'ble Mr. Mazharul Haque, the Hon'ble Mr. Subba Rao, the Hon'ble Raja of Kurupam, the Hon'ble Mr. Gokhale, the Hon'ble Mr. Mudholkar, the Hon'ble Sir G. M. Chitnavis, the Hon'ble Mr. Muhammad Shafi, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Malik Umar Hyat Khan, the Hon'ble Mr. Jinnah, the Hon'ble Mr. Bhurgri, and the Hon'ble Sir Vithaldas D. Thackersey.

*Noes—38.*

His Honour the Lieutenant-Governor of Bengal, the Hon'ble Sir Robert Carlyle, the Hon'ble Sir Harcourt Butler, the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Clark, the Hon'ble Sir Reginald Craddock, the Hon'ble Sir G. Fleetwood Wilson, the Hon'ble Major General Sir M. H. S. Grover, the Hon'ble Mr. MacLagan, the Hon'ble Mr. Gordon, the Hon'ble Mr. Porter, the Hon'ble Mr. Enthoven, the Hon'ble Mr. Wheeler, the Hon'ble Mr. Brunyate, the Hon'ble Sir A. H. McMahon, the Hon'ble Mr. Lyon, the Hon'ble Mr. Saunders, the Hon'ble Sir James Meston, the Hon'ble Mr. Fremantle, the Hon'ble Mr. Todhunter, the Hon'ble Surgeon General Sir C. P. Lukis, the Hon'ble Mr. Sharp, the Hon'ble Mr. Carr, the Hon'ble Mr. Arthur, the Hon'ble Mr. Fyffe, the Hon'ble Mr. Madge, the Hon'ble Sir C. W. N. Graham, the Hon'ble Mr. Phillips, the Hon'ble Mr. Dadabhoy, the Hon'ble Mr. Meredith, the Hon'ble Maung Mye, the Hon'ble Mr. Gates, the Hon'ble Mr. Slacke, the Hon'ble Sir Charles Stewart-Wilson, the Hon'ble Mr. Dempster, the Hon'ble Sir T. R. Wynne, the Hon'ble Mr. Kenrick, and the Hon'ble Mr. Kesteven.

So the Resolution was rejected.

The Council adjourned to Monday, the 26th February 1912.

W. H. VINCENT,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;

*The 29th February 1912.*



## APPENDIX No. 1.

Statement showing by Major Heads the Provincial share of Revenue earned in Berar,  
for the years 1904-05 to 1909-10.

(In thousands of rupees.)

Heads of Revenue.	1904-05.	1905-06.	1906-07.	1907-08.	1908-09.	1909-10.
<b>Principal Heads of Revenue :</b>						
I. Land Revenue . . . . .	41,53	42,18	44,61	44,72	41,88	42,81
IV. Stamps . . . . .	4,45	4,66	4,35	4,92	5,41	6,03
V. Excise . . . . .	18,35	25,23	40,78	23,38	18,24	19,79
VIII. Assessed Taxes . . . . .	1,29	1,29	1,21	1,16	1,06	93
IX. Forest . . . . .	6,61	7,17	7,27	8,19	5,96	5,95
X. Registration . . . . .	1,03	1,23	1,06	1,30	1,38	1,45
	73,26	81,76	99,28	83,67	73,93	77,01
XII. Interest . . . . .	18	16	12	10	18	26
<b>Receipts in Civil Departments :</b>						
XVI A. Law and Justice—Courts of Law . . . . .	49	43	52	51	78	71
XVI B. Law and Justice—Jails . . . . .	21	22	5	5	4	4
XVII. Police . . . . .	66	62	72	76	4	6
XIX. Education . . . . .	37	41	44	42	50	57
XX. Medical . . . . .	2	1	1	...	...	...
XXI. Scientific and other Minor Departments . . . . .	...	...	3	8	31	28
	1,75	1,69	1,77	1,82	1,67	1,66
<b>Miscellaneous :</b>						
XXII. Receipts in aid of Super- annuation . . . . .	24	25	24	40	49	44
XXIII. Stationery and Printing . . . . .	3	3	2	3	2	2
XXV. Miscellaneous . . . . .	18	45	16	14	1	9
	45	73	42	57	52	55
<b>Other Public Works :</b>						
XXXI. Civil Works . . . . .	21	13	16	19	22	24
<b>Total</b>	75,85	84,47	1,01,75	86,35	76,52	79,72

Note.—The Provincial share has been calculated in accordance with the terms of the present settlement.

*Statement showing by Major Heads the Provincial share of Expenditure incurred in Berar, for the years 1904-05 to 1909-10.*

(In thousands of rupees.)

Heads of Expenditure.	1901-05.	1905-06.	1906-07.	1907-08.	1908-09.	1909-10.
<b>Direct demands on the Revenues :</b>						
1. Refunds and drawbacks .	12	19	17	17	20	25
2. Assignments and Compensations . . . . .	2	2	2	2	2	2
3. Land Revenue . . . . .	14,83	14,90	15,34	15,92	15,69	16,04
6. Stamps . . . . .	13	12	13	14	15	16
7. Excise . . . . .	17	37	52	51	57	50
10. Assessed Taxes . . . . .	...	4	3	5	5	5
11. Forest . . . . .	2,54	2,55	2,81	3,19	3,44	3,43
12. Registration . . . . .	47	48	47	49	51	52
	18,28	18,67	19,49	20,49	20,63	20,97
<b>Salaries, etc., of Civil Departments :</b>						
18. General Administration . . . . .	59	61	69	55	72	74
19A. Law and Justice—Courts of Law . . . . .	3,12	3,27	3,41	2,90	4,06	3,96
19B. Law and Justice—Jails . . . . .	84	88	72	55	49	46
20. Police . . . . .	5,28	5,30	5,48	6,56	6,60	6,43
22. Education . . . . .	2,56	3,29	3,17	3,30	3,61	3,81
24. Medical . . . . .	1,42	1,44	1,29	1,21	1,27	1,18
26. Scientific and other Minor Departments . . . . .	15	59	23	37	53	59
	13,96	15,38	14,99	15,44	17,28	17,12
<b>Miscellaneous Civil Charges :</b>						
29. Superannuation etc., Pensions . . . . .	1,45	1,47	1,55	1,62	1,65	1,68
30. Stationery and Printing . . . . .	9	8	10	19	2	2
32. Miscellaneous . . . . .	1,26	95	53	64	87	56
	2,80	2,50	2,18	2,45	2,54	2,26
<b>Other Public Works :</b>						
45. Civil Works . . . . .	6,48	8,82	14,40	15,92	8,79	9,00
<b>Total</b>	<b>41,52</b>	<b>45,37</b>	<b>51,06</b>	<b>54,30</b>	<b>49,24</b>	<b>49,35</b>

*Note.*—The Provincial share has been calculated in accordance with the terms of the present settlement.



## APPENDIX No. 2.

*Statement referred to in the Hon'ble Mr. SUBBA RAO's speech on the Hon'ble Mr. Dadabhoy's Resolution on Income-tax.*

Grade R1,000—1,250.

## PART IV.

	Year.	No. of Assesses.	Amount. R
Old limit	{ 1900-01 . . . . .	41,811	8,41,844
	{ 1901-02 . . . . .	43,673	8,82,841
	{ 1902-03 . . . . .	44,945	9,08,796
New limit	{ 1903-04 . . . . .	57,338	11,87,152
	{ 1904-05 . . . . .	61,538	12,47,438
	{ 1905-06 . . . . .	60,508	12,20,235
	{ 1906-07 . . . . .	60,730	12,24,142
	{ 1907-08 . . . . .	59,507	11,85,375
	{ 1908-09 . . . . .	59,724	11,91,356
	{ 1909-10 . . . . .	61,384	12,26,688



# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 9, 1912.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,  
1861 TO 1909 (24 & 25 VICT., C. 67, 55 & 56 VICT., C. 14,  
AND 9 EDW. VII, C. 4).

The Council met at Government House, Calcutta, on Monday, the 26th  
February 1912.

### PRESENT:

The Hon'ble SIR GUY FLEETWOOD WILSON, G.C.I.E., K.C.B., K.C.M.G.  
VICE-PRESIDENT, *presiding*,  
and 57 Members, of whom 52 were Additional Members.

### QUESTIONS AND ANSWERS.

The Hon'ble Mr. Dadabhoy asked on behalf of the Hon'ble Sir Sassoon David—

“With reference to the answer given on the 27th March last to my question regarding assessment of income-tax on factories, will the Government be pleased to state what decision, if any, has been arrived at in the matter?”

The Hon'ble Sir James Meston, replying on behalf of the Hon'ble Sir Guy Fleetwood Wilson, said:

“The Government of India do not consider it desirable to standardise the rules on the subject throughout India. They have, however, requested Local Governments to examine carefully the practice obtaining in their respective Provinces in order that clearer and more definite rules may be framed, suitable to local circumstances.”

The Hon'ble Mr. Dadabhoy asked:

“Will Government be pleased to lay on the table a statement, showing year by year the number of marriages registered under the Indian Civil Marriage Act (Act III of 1872), with particulars as to the nationality and religion of the parties?”



**The Hon'ble Sir Reginald Craddock** replied :

" A statement\* is laid on the table which shows for each year since 1872, by Provinces, the number of marriages registered under the Indian Civil Marriage Act (Act III of 1872). It is impossible to state the religion of the parties, as the Act applies only to the cases of such persons as do not profess one or other of the main religions of the country, and the information given by them on this point is thus merely negative in character; nor is there any record as to nationality. It would, however, appear from the names of the parties that, out of the 2,028 persons who have availed themselves of the provisions of the Act, 1,728 were of Hindu, 24 of European and 2 of Muhammadan origin, whilst uncertainty exists as to the remaining 274."

**The Hon'ble Mr. Dadabhoy** asked :

" Do Indians trained at Engineering Institutions in India find employment on the Indian Railways ?

" If so, how many of them are so employed ? "

**The Hon'ble Sir T. R. Wynne** replied :

" The reply to the first part of the Hon'ble Member's question is in the affirmative.

" Information as to the number of Indians trained in Engineering Institutions in India, who are employed on Indian Railways, will be found in the Classified List and Distribution Return of Railway Establishments published half-yearly, a copy of which is available for reference in the Additional Members' Room in the Imperial Secretariat.

" The number of Indians (recruited in India) on the permanent Engineer and Upper Subordinate establishments of State Railways is shown on page 131 of the list for the half-year ending 30th June 1911. The figures there given do not, however, include persons employed on the non-pensionable and temporary establishments. Details of these establishments will be found on pages 20 to 24 of the list.

" I should add that the Engineering Colleges in India, in addition to training Engineers proper, train a large number of Indians who qualify in Civil and Mechanical Engineering but all of whom do not secure appointments on Railways as Engineers and Upper Subordinates, as the demand for such is limited. A considerable number of these, whose pay varies from Rs. 50 to Rs. 500, are employed on railways as Inspectors of Works, Permanent-Way Inspectors, Foremen, Mechanics, Sub-overseers, etc., but complete lists of the men in these classes are not published."

**The Hon'ble Mr. Dadabhoy** asked :

" Is it true that the Pennsylvania Railway under an arrangement with the State employ annually six of the best men turned out by Engineering Institutions within the State ?

" Will Government be pleased to say whether they will make similar arrangements on State Railways and State-controlled Railways ? "

**The Hon'ble Sir T. R. Wynne** replied :

" The Government of India have no information as to the method of recruitment of Engineer Establishment of the Pennsylvania Railway.

" At present four qualified Engineer students of the Rurki College are posted annually to State Railways for a course of one year's practical training, and, of these, the two best are permanently appointed to the Engineer Estab-

\* Vide Appendix No. 1.

lishment on completion of their course, the other two being retained as temporary engineers or discharged in accordance with the rule in paragraph 626 A, State Railway Construction Code.

"In addition, two qualified students of the Rurki College Upper Subordinate class, and one qualified student of the Sibpur College, are appointed annually to the Upper Subordinate Establishment of the State Railway Engineering Department.

"With a view to furthering the employment of Indians trained at Engineering Colleges and Technical Institutes, and to the establishment of close relations between these institutions and Railways and other employers, the Government have deputed Colonel Atkinson, R.E., Principal, Thomason College, Rurki, and Mr. Dawson, Principal, Victoria Technical Institute, Bombay, to travel round India and report on opportunities of securing wider employment for Indians, and, if necessary, to adjust courses at Engineering Colleges to conditions prevailing on Railways."

**The Hon'ble Mr. Dadabhoy asked :**

"Has the Government received any communication from the Secretary of State on the subject of the practices prevalent in many parts of India of dedicating minor girls to temples and of giving minor girls in adoption to public women ?

"If any such communication has been received, will Government be pleased to state what action has been taken upon it ?

"Does Government propose to initiate preventive legislation ? If so, does it propose to undertake such legislation at an early date ?"

**The Hon'ble Sir Reginald Craddock replied :**

"The matter is engaging the attention of the Government of India, but at the present stage of the discussion no further information can be given."

**The Hon'ble Mr. Dadabhoy asked :**

"Will Government be pleased to state why 'temporary promotions' following leave to a member are not provided in the Provincial Civil Services while they are provided in the Higher Services ?

"Do Government propose to abolish the distinction in the Civil Service Regulations, and make the rules uniform in respect of both the branches of the Public Service ?"

**The Hon'ble Sir Reginald Craddock replied :**

"The reason for the differential treatment of the Provincial Services on the one hand and, for instance, the Indian Civil Service, to which it is understood the Hon'ble Member refers, on the other, is that the latter was originally organised on a system of substantive promotion in furlough vacancies. In 1868, this procedure was changed, and an officer proceeding on furlough retained a lien on his grade appointment. As a partial compensation to his *locum tenens* for the loss of substantive promotion, what is known as an officiating allowance was given to him, and this is doubtless the 'temporary promotion' referred to. These considerations never applied to the case of the Provincial Services, to which the system of officiating promotion has not been extended. In view of the origin of the existing difference, as explained, it is not considered necessary to introduce a uniform treatment of these Services in this respect."



**The Hon'ble Babu Bhupendranath Basu asked :**

" Will the Government be pleased to state—

- (1) the number of hospitals, public and private, in the whole of British India ;
- (2) the number of dispensaries distributing charitable relief ;
- (3) the number of patients in each year for the last three years in the hospitals ;
- (4) the number of patients in each year for the last three years attending the free dispensaries ;
- (5) the average number of people suffering from malaria, plague and other preventible diseases in British India each year for the last three years ;
- (6) the number of deaths from the above diseases during the same period ;
- (7) the number of medical colleges and schools maintained or recognised by Government ;
- (8) the number of qualified medical practitioners turned out of these colleges and schools for the last three years ;
- (9) and if any data is available, the approximate number of qualified medical practitioners in British India. "

**The Hon'ble Sir Reginald Craddock replied :**

" No distinction is drawn in official records between hospitals and dispensaries, and it is therefore impossible to give the information asked for in the first four questions in the exact form required by the Hon'ble Member. But I lay on the table a statement marked A,\* which shows that there are in the whole of India 4,128 institutions for the relief of sickness. Of these, 3,214 are maintained entirely by the State or by local funds, and 914 in whole or in part by private effort. I also lay on the table a statement marked B,\* which shows the number of in-door and out-door patients, respectively, for the period 1908-1910. I trust that these figures will suffice for the Hon'ble Member's purpose.

" In answer to questions 5 and 6, I lay upon the table a statement marked C\* to show the number of recorded deaths from small-pox, fevers, cholera and plague for the same triennial period. There are no statistics which will show the number of persons who suffered from these or any other diseases.

" The answer to question 7 is five medical colleges and 15 schools.

" The answer to question 8, is 1,905, namely, for 1909, 670 ; for 1910, 629, and for 1911, 606.

" In answer to question 9, I lay upon the table a statement marked D\* which shows that there are approximately 8,784 qualified medical practitioners in British India, of whom approximately 1,771 are private practitioners. This latter figure is, however, open to doubt, as in the absence of any medical registration act the information on the subject has to be drawn from unofficial sources.

**The Hon'ble Mr. Mudholkar asked :**

" Will Government be pleased to state the terms of reference to the Committee on Indian military expenditure which Government are reported to have appointed with Sir William Nicholson as its President? Is there any non-official Indian appointed on the Committee? If not, does Government propose to consider the desirability of according informed Indian opinion suitable representation on that Committee? "

\* Vide Appendix No. 2.

**His Excellency the Commander-in-Chief** replied :

"The Government of India have recommended, and the Secretary of State has approved, the formation of a Committee of military officers assisted by Finance Department representation, to consider military policy, administration and expenditure in India.

"It is not proposed or considered necessary to include any other representation on the Committee."

**The Hon'ble Sir G. M. Chitnavis** asked :

"During Lord Minto's Viceroyalty, did any correspondence on the subject of a permanent settlement of land-revenue for the whole or part of India and of long term settlements pass between this Government and the Right Hon'ble the Secretary of State, and also between the Government of India and the Local Governments? If so, will the Government be pleased to lay the papers on the table for the information of the public, and to state the final result of such correspondence?"

**The Hon'ble Sir Robert Carlyle** replied :

"There has been no correspondence of the kind indicated by the Hon'ble Member."

**The Hon'ble Sir G. M. Chitnavis** asked :

"(1) Has the attention of Government been drawn to statements reported in 'Indian Art, Industry and Education' by Mr. E. B. Havell, late Principal of the Calcutta School of Art, and also lately in an appeal to the Government of India originally published in the *London Times* and since reported in most Indian newspapers by that same gentleman, that the indigenous building architectural art is languishing for want of official recognition and support?"

"(2) Do Government propose to employ Indian architects and carvers of the old school on any construction and decorative work which may be undertaken at Delhi and in the new Province of Behar and Orissa, and as far as practicable to patronise and encourage revival of Indian art in the Public Works Department?"

**The Hon'ble Sir Robert Carlyle** replied :

"1. The answer to the first question is in the affirmative.

"2. Government have no doubt that work will be found on the new buildings at Delhi and the capital of the new province for a considerable number of Indian carvers and other workers in the decorative arts, but the extent to which these will be employed will largely depend upon the nature of the designs for the buildings, a question which has not yet been considered.

"The architects to be employed on the designs of the buildings will be selected solely with regard to their qualifications for that important work and for dealing with the numerous complex problems connected with the design and construction of buildings adapted to suit modern requirements.

"Government have every desire to encourage the revival of Indian Art in the Public Works Department and elsewhere, and will take every opportunity of doing so with a due regard to economy in the expenditure of public funds."

**The Hon'ble Mr. Subba Rao** asked :

"With reference to my Resolution on the Public Service question and the enquiry promised by the Hon'ble Sir Archdale Earle on behalf of the Government on the 17th March last, will the Government be pleased to state the result of such enquiry and lay on the table such orders, if any, passed on the subject?"



**The Hon'ble Sir Reginald Craddock replied :**

"The question raised by the Hon'ble Member is the subject of inter-communication between the Government of India and the Secretary of State, and the Government of India are not prepared to make any pronouncement with regard to it at this stage."

**The Hon'ble Mr. Subba Rao asked :**

"Will the Government be pleased to lay on the table the rules and orders made by the Governor General for the transaction of business in his Council under section 8 of the Indian Councils Act, 1861, and also those by the Governors of the Presidencies of Fort St. George and Bombay under section 28 of the said Statute?"

**The Hon'ble Sir Reginald Craddock replied :**

"The rules framed by the Governor General under section 8 of the Indian Councils Act, 1861, for the transaction of executive business in his Council govern the procedure of a body whose deliberations are confidential, and the Government of India consider that no useful purpose would be served by placing them on the table.

"The Hon'ble Member's request as regards the rules framed by the Governors of Madras and Bombay should be preferred in the Councils of those Governors."

**The Hon'ble Mr. Madge asked :**

"Will the Government be pleased to state—

(1) whether the Cantonment Magistrate of Landour has been authorised—

(a) to inform any owners of property held in undisturbed possession for over fifty years under the Norman Grant or the Wells Settlement Act that though their houses may be their own the land on which they stand belongs to Government and may be resumed ;

(b) to prosecute and fine owners for exercising proprietary privileges which they have enjoyed and exercised unquestioned for over fifty years ; and

(2) whether the Government has received legal advice from its own legal advisers conflicting with or not supporting the claims advanced by the Landour Cantonment Magistrate against private owners?"

**His Excellency the Commander-in-Chief replied :**

"(1) (a) The estate holders have been informed that the Government of India are prepared to consider as *grantees* the holders of the estates now included within the limits of the cantonment, which are shown in the list of grants prepared in 1842, since it is considered that their position cannot be better than that of the Government itself, which is only that of a lessee. It must, however, be understood that these rights do not conflict with the full power of Government to administer and impose taxation under the Cantonments Act, 1910.

"The reply, therefore, is in the negative.

"(b) The reply is in the negative.

"(2) The position claimed by Government, based on legal advice, is as stated in reply to (1) (a) above. Any claims made which do not coincide with this statement of the case are unauthorised."

**The Hon'ble Mr. Madge asked :**

"Will the Government be pleased to state—

- (1) how many members of the Domiciled Anglo-Indian Community have been nominated for the higher police appointments of their respective Provinces during the past five years;
- (2) how many officers have been brought out from Britain during the same period for similar appointments in each Province; and
- (3) what are the respective proportions of imported to locally nominated officers in the several Provinces during the same period?"

**The Hon'ble Sir Reginald Craddock replied :**

"I place on the table a statement,\* the figures in the several columns of which answer the three parts of the Hon'ble Member's question. The Government of India have no information as to how many of the 26 officers shown in column 2 of the statement were domiciled in the strict sense of the term. In answering the question, the phrase 'Members of the Domiciled Anglo-Indian Community' has therefore been interpreted to mean officers recruited in India, as distinguished from officers recruited from England; and I gather from parts (2) and (3) of the Hon'ble Member's question that this interpretation gives him the information which he requires. The statement does not include a few military officers who have in special circumstances been appointed in India to the Civil Police in Burma, Bengal and Eastern Bengal and Assam."

**The Hon'ble Mr. Muhammad Shafi asked :**

"Will the Government be pleased to state, for the information of the Council, the total amount of outlay upon State irrigation works, Major and Minor, whether in the form of extension of previously existing or of construction of new canals, since the Budget debate of 1905 up to date? What is the total length of canals and distributaries constructed during this period, and what is the total area in acres irrigated by the canals so constructed?"

**The Hon'ble Sir Robert Carlyle replied :**

"The outlay on the construction of our Major irrigation works since the Budget debate of 1905 is as follows:—

Year.	Outlay in lakhs.
	Rs.
1904-05	87½
1905-06	129
1906-07	175½
1907-08	191
1908-09	210½
1909-10	224½
1910-11	235½
1911-12 (probable)	287

"The total expenditure on our Minor irrigation works for the same period is as follows:—

Year.	Expenditure in lakhs.
	Rs.
1904-05	133½
1905-06	140½
1906-07	128½
1907-08	127½
1908-09	134½
1909-10	135
1910-11	132½
1911-12 (probable)	128

\* Vide Appendix No. 3.

"The total length of canals and distributaries in operation at the end of 1904-05 and of 1911-12 and the areas irrigated by the canals in those years are as follows, the figures for 1911-12 being approximate :—

Year.	Length of canals and distributaries in operation.	Irrigated area.
	Miles	Acres.
1904-05 . . .	50,176	20,167,967
1911-12 . . .	58,684	22,433,837
Increase in 1911-12 . . .	8,585	2,265,870

In addition to the canals in operation, there are altogether 55 projects which are either under construction, awaiting sanction or being examined by the professional advisers of Government. These are designed to irrigate 10 million acres at a total capital cost of about 56½ crores of rupees. The Major works now actually under construction will add an aggregate length of about 7,500 miles to the total length of channels."

**The Hon'ble Mr. Muhammad Shafi asked :**

"Is the Government aware of the publication in the Australian Colonies of what is called the 'Official Year Book of the Commonwealth of Australia' containing in a compact form valuable information relating to the administration of the Colonies from year to year? Has the Government of India considered the advisability of undertaking the publication of an Official Year Book, on somewhat similar lines, for British India?"

**The Hon'ble Sir Reginald Craddock replied :**

"The Government of India have seen the publication to which the Hon'ble Member refers. So far as this country is concerned corresponding information is given in the 'Statement exhibiting the moral and material progress and condition of India' and in the 'Statistical Abstract relating to British India' which are presented to Parliament; in the volumes of statistics of British India, which are published in India, and in the Annual Administration Reports of the various provinces. All these publications are accessible to the public, and nothing in the nature of a further Year Book appears to be required."

**The Hon'ble Mr. Muhammad Shafi asked :**

"Will the Government be pleased to state—

- what is the starting as well as the maximum pay of a Munsif in Bengal, the United Provinces of Agra and Oudh and the Punjab, respectively;
- what is the total number of these posts in each of the three Provinces and, excluding those who have secured these appointments through competitive examination, how many of the present incumbents of these posts, in each Province, have been appointed direct from the ranks of the legal profession?"

"With your permission, I should like to have these two questions answered separately."



**The Hon'ble Sir Reginald Craddock** replied :

"I lay upon the table a statement\* which gives the information desired by the Hon'ble Member. He will observe that it gives the information separately as asked for by him."

**The Hon'ble Mr. Muhammad Shafi** asked :

"It was my intention, Sir, with your permission, to put a supplementary question in connection with question (a)."

**The President** replied :

"The Hon'ble Member had better give notice of his question."

**The Hon'ble Raja of Dighapatia** asked :

"Has the attention of the Government been drawn to a recent address delivered by Sir Theodore Morison at the London Chamber of Commerce in which he deplored the exclusion of Indian students from apprenticeships in English workshops? Do Government propose to consider the necessity of affording facilities to Indian students of Technology to get admission into the factories and workshops both in England and India for the purposes of practical training?"

**The Hon'ble Sir Harcourt Butler** replied :

"The Government of India have seen the reports of Sir Theodore Morison's address which have appeared in the Press.

"The difficulties which have been experienced in affording facilities to Indian students for study in certain branches of industry have already formed the subject of communications between the Secretary of State and the Government of India, and are still under consideration."

**The Hon'ble Raja of Dighapatia** asked :

"Is it a fact that the new Province of Assam will be withdrawn from the jurisdiction of the Calcutta High Court and placed under a Judicial Commissioner?"

**The Hon'ble Sir Reginald Craddock** replied :

"No such proposal is at present under the consideration of Government."

**The Hon'ble Raja of Dighapatia** asked :

"Will Government be pleased to state if it is proposed to abolish the Board of Revenue in Bengal, and, if so, whether Government intend to fix the number of members of the Executive Council of Bengal at its statutory maximum?"

**The Hon'ble Sir Reginald Craddock** replied :

"It is proposed to discontinue shortly the separate appointment of Member of the Board of Revenue in Bengal, but no increase in the present number of members of the Executive Council is contemplated on this account."

**The Hon'ble Mr. Gokhale** asked :

"With reference to the announcement made by the Under Secretary of State for India in the course of the discussion of the Indian Budget in Parlia-

\* Vide Appendix No. 4.

ment last July that the Government were preparing 'a scheme of a comprehensive character dealing with elementary, technical and higher education' and that it would be 'made known before long,' will the Government state what progress had been made with the preparation of such a scheme, and when it would be published for general information?"

**The Hon'ble Sir Harcourt Butler** replied :

"The Government of India have forwarded to the Secretary of State a general scheme of a comprehensive character dealing with elementary, technical and higher education. They are not in a position to say when it will be published for general information."

**The Hon'ble Mr. Gokhale** asked :

"Is it the intention of the Government of India to remove the Imperial Records from Calcutta, not to Delhi, but to Simla? If so, will they state how they propose to provide at Delhi for the needs of members of this Council, who require access to the records to enable them to perform satisfactorily their duties in connection with Council work?"

**The Hon'ble Sir Harcourt Butler** replied :

"The question of the removal of the Imperial Records has not yet been decided. Wherever the records may be located, provision will be made at Delhi for the needs of the members of this Council who require access to the Records to enable them to perform satisfactorily their duties in connection with Council work."

**The Hon'ble Mr. Gokhale** asked :

"With reference to the observations made by the Hon'ble the Finance Member last year on the proposal to create a fixed Sinking Fund, will the Government state if the examination of the question promised by the Hon'ble Member has been completed? And if so, what conclusion has been arrived at?"

**The Hon'ble Sir James Meston**, on behalf of the Hon'ble Sir Guy Fleetwood Wilson, replied :

"The question has been carefully studied; but it presents considerable difficulties, and the Government of India regret that they are not yet in a position to make any statement regarding it."

**The Hon'ble Mr. Gokhale** asked :

"Has the reply of the Secretary of State to the despatch of the Government of India on the subject of the position of the Provincial Engineers of the Public Works Department been now received? When may final orders on the subject be expected?"

**The Hon'ble Sir Robert Carlyle** replied :

"The Secretary of State has not yet replied to our despatch on the subject. Government hope to have a reply on an early date, but they cannot state definitely when a reply may be expected."

**The Hon'ble Mr. Gokhale** asked :

"Will the Government lay on the table a return showing what Members of the Indian Civil Service are of South African, Canadian, Australian or New Zealand origin?"

**The Hon'ble Sir Reginald Craddock** replied :

"The existing records in the possession of Government do not furnish the information asked for. The facts will, however, be ascertained and communicated to the Hon'ble Member."

**The Hon'ble Mr. Gokhale** asked :

"Are there any medical men, outside the ranks of the Indian Medical Service, occupying any Senior Clinical Chairs in the Calcutta and Madras Medical Colleges? Is there any legal bar to the appointment of such men? If not, will the Government state why no such appointments have been hitherto made?"

**The Hon'ble Sir Reginald Craddock** replied :

"The answer to the first two portions of the Hon'ble Member's question is in the negative, but it is the intention of the Government shortly to appoint an officer outside the ranks of the Indian Medical Service to the newly created chair of Anatomy in the Medical College, Calcutta. It is of the utmost importance in the future interests of the medical profession in India that the instruction imparted to medical students should be as efficient as possible, and it is because the best qualified Professors have hitherto only been found among the members of the Indian Medical Service that these posts till now have been filled from that service."

**The Hon'ble Mr. Gokhale** asked :

"Is it a fact that other duties besides their particular work are sometimes assigned to Professors in Medical Colleges and Hospital Physicians? Is it a fact that some of the officers of the Indian Medical Service, holding responsible posts intended for research work, are permitted to undertake in addition private service under private firms in Calcutta and Bombay or on the Editorial Staff of Medical journals? If so, how far is such acceptance of private service consistent with the terms of their appointment to such posts, or with the rules of public service?"

**The Hon'ble Sir Reginald Craddock** replied :

"Professors in Medical Colleges and Hospital Physicians may be whole-time officers, *i.e.*, they may have no other official work than that of teaching by lectures, clinical demonstrations and charge of wards in the hospital attached to the College; or their professional work may be a collateral charge. Instruction in Chemistry, for example, is normally given by the Chemical Examiner, and in Medical Jurisprudence by a Civil Surgeon or Police Surgeon. In some of the Colleges a Professor may combine the duties of more than one chair with those of Civil or Presidency Surgeon. Consulting practice is permitted in certain appointments; in the others—the so-called 'non-practising' professorships—it is not.

"It is not clearly understood to what 'responsible posts intended for research work' the Hon'ble Member refers. For instance, the Chemical Examiner, Bengal, is allowed to undertake private practice, and there is no reason to suppose that this interferes with the proper discharge of his official duties. If the Hon'ble Member cares to specify any particular appointment which he has in mind, further information can be given.

**The Hon'ble Mr. Gokhale** asked :

"Will the Government lay on the table a return showing the cases in which action has been taken by the different Local Governments and Administrations under the Press Act of 1910, since the date of the last return on this subject?"



**The Hon'ble Sir Reginald Craddock** replied :

"A complete return,\* corrected up to date, showing the cases in which action has been taken by the different Local Governments and Administrations under section 12 (1) of the Press Act I of 1910 since the passing of the Act, is placed on the table as requested."

**The Hon'ble Mr. Gokhale** asked :

"Is it not a fact that a despatch was received from the Secretary of State for India in 1908 urging the formation of a Civil Medical Department? Has anything been done in this direction, and, if so, what? Will the Government lay on the table the opinions of authorities consulted on the question in India?"

**The Hon'ble Sir Reginald Craddock** replied :

"I would refer the Hon'ble Member to the reply given to a similar question put by him on the 18th March 1910, and also to the answer furnished to the Hon'ble Pundit Madan Mohan Malaviya on the same subject on the 7th March 1911. The Government of India are still awaiting the orders of the Secretary of State in the matter, and, in these circumstances, no further information can at present be given."

**The Hon'ble Mr. Sachchidananda Sinha** asked :

"Will the Government be pleased to state whether any, and if so, which of the recommendations of the Decentralisation Commission have already been carried out, also whether any of them are at present under consideration, and if so, which and when the decision of the Government thereon may be expected?"

**The Hon'ble Sir Reginald Craddock** replied :

"No general reply can be given without detailed explanations and qualifications of excessive length, and the compilation of these would necessitate protracted references to Local Governments, and would serve no useful purpose. If the Hon'ble Member cares to specify any particular proposal of the Commission of the subsequent history of which he desires to be made aware, an endeavour will be made to supply him with the facts."

**The Hon'ble Mr. Sachchidananda Sinha** asked :

"(a) Will the Government be pleased to state if the Governor in Council of the Bengal Presidency will in all respects be vested with the same powers and privileges as the Governors in Council of the Madras and Bombay Presidencies, especially in the matter of directly corresponding with the Secretary of State. If not, what differences, if any, are it is proposed to be made?"

"(b) Is it under contemplation to curtail or abolish the powers of the Madras and Bombay Governments in the matter of direct correspondence with the Secretary of State, as recommended by the Decentralisation Commission?"

**The Hon'ble Sir Reginald Craddock** replied :

"(a) The powers and privileges of the Governor in Council designate of the new presidency of Bengal will be governed by the legislation which will shortly be undertaken in the Imperial Parliament, pending which no statement can be made."

\* Vide Appendix No. 5.

"(b) No proposals to curtail or abolish the powers of the Madras and Bombay Governments in the matter of direct correspondence with the Secretary of State are at present before the Government of India."

**The Hon'ble Mr. Sachchidananda Sinha asked :**

"(a) Will the Government be pleased to state if the Signal Engineer Department of State Railways is a special branch of the Engineer Establishment of State Railways ?

"(b) If so, when was it established, and what are the rates of pay and conditions of service of officers belonging to it ?

"(c) Are the officers of this department included in the Imperial or Provincial Branches of the Engineer Establishment of State Railways, or whether they are classed as temporary ?

"(d) Is this service open to all His Majesty's subjects, and if so, what qualifications are required ?

"(e) Have the rules governing appointments to this service been published ; if so, when and where ?

"(f) Have certain officers of the Provincial Engineer Service been transferred to the Signal Engineer Department ? If so, why, and on what conditions ?"

**The Hon'ble Sir T. R. Wynne replied :**

"The replies to the Hon'ble Member's questions are as follows :—

"(a) The Signal Engineer Establishment forms part of the Superior Revenue Establishment of State Railways. There are ten appointments in all.

"(b) In order to deal with the present day requirements of railway travelling and railway signalling on the recommendation of a Committee of Managers, the establishment was put on its present footing in February 1909, but prior to that date, individual appointments of Signal Engineers existed in the Engineering Department.

"The rates of pay of the present Signal Engineer Establishment are stated on page 34 of the State Railway Classified list for the half-year ended June 1911 (which is available for reference in the Additional Members' Room). Briefly, there are Assistant Signal Engineers on Rs. 400—600, Senior Assistants on Rs. 700—900, and two Signal Engineers in charge whose maximum pay is Rs. 1,000 and 1,250, respectively, and all are subject to the ordinary rules applicable to the Superior non-pensionable establishment of State Railways.

"(c) As has been stated, the Signal Engineer Establishment forms part of the non-pensionable open line establishment.

"(d) The appointments are open to all His Majesty's subjects possessing a technical knowledge of up-to-date Railway Signalling.

"(e) No special rules have been published. Recruits possessing the necessary technical knowledge are taken on as required : such knowledge on its practical side is acquired on large signalling works and installations in Great Britain.

"(f) Two officers of the Provincial Service who specialised in Signalling on the North-Western State Railway and went through a course of training in England on their own initiative and at their own expense, were appointed to the Signal Engineer Establishment on its formation in 1909. On appointment they severed their connection with the pensionable Engineer Establishment."

**The Hon'ble Mr. Sachchidananda Sinha** asked :

"In reply to the resolution moved last year by the Hon'ble Mr. Subba Rao on the public service question, the Hon'ble Mr. (now Sir Archdale) Earle stated as follows :—

'Although Indians are not eligible for direct recruitment to this service (Superior police service), Deputy Superintendents who are recruited almost entirely from among Indians, and who form a service similar to the Provincial Civil Service, can be promoted to the superior service up to, for the present, a limit of 5 per cent. of the number of Superintendents in a province. This works out to a total of 15 posts at present available for Indians out of a total of 300.'

"Will the Government be pleased to mention the names of Deputy Superintendents, if any, who have been promoted to any of the fifteen posts of Superintendents thrown open to them?"

**The Hon'ble Sir Reginald Craddock** replied :

"The information will be collected and communicated to the Hon'ble Member."

**The Hon'ble Mr. Sachchidananda Sinha** asked :

"(a) Are the Government aware that there is very great dissatisfaction with the management of the Bengal and North-Western Railway amongst the public of North Behar and the Eastern District of the United Provinces—the tract through which the railway runs—on the score of unpunctuality of its service, the insufficiency of accommodation provided, especially in the higher classes and also that of the goods wagons, the bad lighting arrangements, the general inefficiency of the staff and in all that conduces to the convenience and comfort of passengers?"

"(b) If not, do the Government propose to institute an inquiry so as to ascertain public opinions on the subject?"

"(c) If not, will the Government be pleased to state their reasons for the same?"

"(d) Will the Government be pleased to state the dividend declared by the Directors of the Bengal and North-Western Railway during the last five years?"

**The Hon'ble Sir T. R. Wynne** replied :

"No representations have been received by the Government of India of such a nature as would support the imputations against the Company's management contained in part (a) of the question. In the matter of shortness of rolling stock the present temporary pressure of trade is causing the same difficulty to be felt on other Railways in India.

"In these circumstances, Government do not propose to hold the inquiry proposed in part (b).

"As regards (d) the dividend paid by the Company during the last five years for which figures are available is :—

1906	6½ per cent.
1907	7½ "
1908	7½ "
1909	7½ "
1910	7½ "

"I would add that the Bengal and North-Western Railway proper has been constructed entirely out of funds provided by the general public without a guarantee or any other financial assistance from Government."



**The Hon'ble Mr. Sachchidananda Sinha asked :**

"Will the Government be pleased to state the total numbers of Colleges which were placed under the jurisdictions of the Calcutta, Madras, Bombay, Allahabad and the Punjab Universities, respectively, when the said Universities were established?"

**The Hon'ble Sir Harcourt Butler replied :**

"At the founding of the several Indian Universities territorial limits within India were not stated. The numbers of colleges affiliated to the several Universities at or near the time of their establishment were (so far as can be ascertained from the Calendars available of nearest date after the constitution of the Universities) as follows :—

Calcutta	13
Madras	7
Bombay	2
Punjab	5
Allahabad	13

**WILD BIRDS AND ANIMALS PROTECTION BILL.**

**The Hon'ble Sir Reginald Craddock :** "Sir, I have to introduce to the Council a Bill to make better provision for the protection and preservation of certain wild birds and animals. This Bill has already, by virtue of an order passed under rule 23 of the rules for the conduct of Legislative Business by the Governor General, been published in the *Gazette of India* of the 12th January 1912. It follows under the terms of the second paragraph of that rule that it is not necessary that I should move for leave to introduce the measure; but the Council would no doubt like to have a brief explanation of the proposals, and I accordingly offer a few remarks on the subject.

"The better protection of the fauna of the country is a matter which has come before the Government from time to time since the year 1869. In the earlier discussions it was the general opinion that the harm done had not reached sufficient dimensions to warrant the imposition of restrictions for the protection of birds and animals. But, as time went on, cultivation began to spread over waste-land and communications and trade increased, it became necessary to provide some measure of protection and Act XX of 1887 was the result. This Act enabled Local Governments and municipal and cantonment authorities to make rules applicable to municipal and cantonment areas to prohibit under penalty the sale or possession of wild birds recently killed or taken during their breeding seasons, as well as the importation into any municipal or cantonment area of the plumage of any kind of wild bird during such season. The Act further empowered Local Governments to declare these provisions to apply to any animals or game other than birds. It was hoped by these measures that it would be possible to check the indiscriminate slaughter for the purpose of food, or for the sake of furs or feathers, of birds and animals, the protection of which during their breeding seasons was necessary to preserve the species.

"The restriction of the operation of the Act to the very limited areas of municipalities and cantonments was found to give inadequate protection, and in 1902 it was considered necessary to bring section 19 of the Sea Customs Act of 1878 into use, so as to prohibit the taking by sea or by land out of British India of the skins and feathers of birds, except feathers of ostriches and skins and feathers exported *bona fide* as specimens illustrative of natural history. It has since become evident that these powers are inadequate to secure the object desired. Municipal and cantonment authorities have themselves no special interest in a matter of this kind, and although in some Provinces further protection has been secured by means of Forest Regulations and the conditions

attached to gun licenses, yet, as a result of much correspondence and consultation, it has been considered necessary to extend these powers over the country at large in order to secure the object in view. It is now universally recognised all over the world to be one of man's duties to preserve from extermination all such birds and animals as are not in themselves a danger to human life. In Ceylon and Africa Ordinances have already been passed and an inter-departmental Conference on the subject sat at the Colonial Office in London last year. The laws of the United Kingdom, and of several of the United States of America, of Norway, Russia, Belgium, the Netherlands, certain German States, France, Switzerland, Hungary and parts of Austria will, even if the Bill now before the Council is passed, be considerably in advance of the law in this country in the matter of the preservation of game. Only last September the Government of India were invited to join in an International Commission for the protection of nature. The Government accordingly propose that we should in India also bring ourselves now into line with the movement to protect from extermination the wild birds and animals of the country. I accordingly recommend this Bill to the Council.

"Lest, however, any apprehension should be felt that it is sought to protect game at the expense of agriculture, I desire to lay stress on the fact that care has been taken in the Bill to exempt from the penalties that may be imposed the capture or killing of a wild animal by any person in defence of himself or of any other person, and the capture or killing of any wild bird or animal in *bona fide* protection of a standing crop or growing fruit. I move, therefore, that the Bill to make better provision for the protection and preservation of certain wild birds and animals be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Sir Cecil Graham, the Hon'ble the Maharajadhiraja Bahadur of Burdwan, the Hon'ble Sir G. M. Chitnavis, the Hon'ble Nawab Abdul Majid, the Hon'ble Mr. Meredith, the Hon'ble Mr. Vincent, the Hon'ble Mr. Carr, the Hon'ble Mr. Arthur and myself."

The motion was put and agreed to.

#### SPECIAL MARRIAGE AMENDMENT BILL.

The Hon'ble Mr. Bhupendranath Basu: "Sir, I have the honour to move that the Bill to amend the Special Marriage Act, 1872, be referred to a Select Committee, and in doing so, with your leave, Sir, I shall briefly review the position as regards the Special Marriage Act which my Bill seeks to amend. When I introduced this Bill last year, I must say that I did not expect or anticipate the large and influential support that I have received from the country. It was beyond my wildest expectation. If you go into the history of social legislation in this country, beginning from the time when the Marquis of Wellesley stopped the practice of throwing children into the sea down to the time when the Sati Bill was passed into law, there was almost always even against inhuman practices as throwing of children into the sea, the killing of female children, the burning of sati, a storm of indignation and opposition which would have stopped the hand of a less courageous Government than ours has been in the past. Would it be believed now that when Lord William Bentinck introduced his great legislation stopping the burning of Hindu widows, would the Hindu of the modern day believe, that his ancestors submitted a solemn memorial to Government that if widows were no longer allowed to be burnt the result would be that the marital rights of the people of this country would be seriously jeopardised, that chastity amongst women would be an unknown quantity, that husbands would be poisoned and murdered and that social life would be intolerable? Who is it amongst the opponents of my measure to-day who would not say that it was the grossest libel that could have been pronounced upon Hindu womanhood? What has been the experience of nearly a hundred years that have



since passed as regards the effect of the measure on Hindu life and Hindu home? Well, Sir, I remember also the great agitation that was raised when a tiny little measure, which to the social reformer was practically of very little concern, for raising the age of consent was introduced into this Council at the time of Lord Lansdowne. Sir, I saw a mass meeting on the *maidan* in which nearly a hundred thousand men had assembled from all over Bengal to protest against the iniquity of the Government undertaking to legislate on a matter affecting the social life of the Hindus. I was present also on that occasion at the temple of Kalighat where hundreds and thousands had assembled offering prayers to the goddess to save them from that dire calamity, and I also remember the procession joined by the highest of the land which passed through or rather in front of this Government House to show the indignation of the people against a measure of that description. This is a recent instance—an instance which is within the knowledge of many of us: I had the temerity when that Bill was being criticised to be present at a public meeting to put in a protest against the Resolutions that were going to be passed. Well, Sir, I was very soon shewn the door, and the treatment I received I have not yet forgotten. Then, Sir, when the great Vidyasagar brought forward his Widow Re-marriage Bill, what was the feeling of the country from Bombay to Calcutta against its provisions? It was that Hindu society was going to be turned upside down and the purity of the Hindu widow was going to be destroyed. I shall not refer to the Lex Loci Act, which was opposed practically universally by Hindus and Mussalmans alike—an Act which removed forfeiture from those who gave up the religion of their ancestors and embraced a different faith, and the charge was made against the Government by Mussulmans and Hindus alike that it was really intended to further the progress of Christianity in this country. My measure, the small Bill that I have introduced, has not met with even a hundredth part of the opposition that those measures had evoked in the past. Even the very measure which I now seek to amend when it was introduced by Sir Henry Maine and reintroduced by Sir Fitzjames Stephen with great and material alterations there were sixty thousand signatories against it and there were only a few people who were supporting it. I have been at some pains to go through the voluminous correspondence with which the Government has favoured us and I find that in the opinions that have been expressed on either side of the question, there are about 177 in my favour against about 187. That, I think, is a very respectable number in my support. From these numbers, I am excluding Burma, where I have a majority in my favour. I am also excluding Baluchistan as not probably likely to be affected by my measure if passed into law, at least not in the immediate future, and the number in that place is very small. In this majority against me, there are 28 Muhammadans who, as I shall proceed to show, are not so vitally affected as we are and there are 11 members of other communities neither Hindu nor Mussalman; so that if you omit these 39 opinions, the opinions that have been hitherto received for or against the measure those who are in my favour form a very respectable majority.

“I may refer to the many public meetings that have been held all over India in support of my Bill. To my great regret on the last occasion, my friend the Hon'ble Mr. Subba Rao had expressed some surprise at the revolutionary character of my measure. I am glad to be able to say that many orthodox people in his Province have given their whole-hearted support to my measure in all its details. Every Social Conference that has sat in India during the last year in every Province has spoken in support of my Bill. And I may say with a safe and clear conscience that I have personally never tried to influence, either by speech or by letter, the opinion of any single individual or body of men in my country over my Bill. I had been asked to tour about the country and to educate public opinion; but in a matter like this, rightly or wrongly, I thought it would be best to let my countrymen come to a conclusion for themselves. What I had to say had been practically said in the speech with which I introduced the measure. But it is not only the volume of the support that I have got, not only the extent; that is a most gratifying feature of the situation that I have the highest authority, if I may say so, in my

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country in my favour. Sir Pratul Chandra Chatterji, retired Judge of the Punjab Chief Court, Mr. Justice Banerjee of the Allahabad High Court, Sir Chandavarkar of the Bombay High Court, Mr. Sankara Nair of the Madras High Court, Mr. Sarada Charan Mitter, a retired Judge of the Calcutta High Court, have all spoken—high and great judicial authorities as these gentlemen are, recognised exponents of Hindu law and Hindu sentiment as these gentlemen must be assumed to be—they have all spoken in terms of unqualified approval of my measure. Mr. Srinivasa Aiyangar of Madras presided over a public meeting in which my Bill was discussed and supported my Bill. Dr. Satis Chandra Banerjee, a great Hindu jurist and an orthodox Hindu gentleman of Allahabad, has given his unqualified support to my Bill. Who else is better qualified in India to speak about Hindu customs and Hindu practices than Dr. Bhandarkar of Bombay? He belongs to an advanced section of the Hindus, but from the Hindu standpoint he has given his support to my Bill. And what is the stringent feature of all—that organ of the highly conservative and proud Mahratta Brahmins of Poona—conservative I say in matters of religion and religious practices, who with their Hindu brethren in Bengal had led the opposition to the Age of Consent Bill, who had gone to the length of making a session of Congress nearly impossible at Poona because the use of the Congress Hall had been promised for a Social Conference after the Congress was over—it is their organ, the *Kesari*, which has been one of my strongest supporters. And who else? There sits my Hon'ble friend, Pandit Madan Mohan Malaviya, and his paper in Allahabad, the *Leader*, has thrown him overboard and has been most strenuously supporting my Bill. His lifelong friend and companion, his most esteemed colleague, Mr. Ganga Persad Varma of Lucknow, one of the most orthodox men that I have known—at the same time a man of advanced views and culture—in his paper the *Advocate* has been supporting my measure.

“Amongst the Parsis, the *Parsee* newspapers and the *Oriental Review* have also lent their strong support. Some of my Muhammadan friends in this Council had done me the great honour of supporting my measure when I introduced it here. A Muhammadan Judge of the Allahabad High Court, known to be the most learned Muhammadan jurist in India, esteemed alike by Hindus and Mussalmans for his quiet piety and knowledge of Arabic literature, Maulvi Karamat Hussain, has given his unqualified support to my Bill. Two Muhammadan Judges, one of them of the Sialkot Division and the other of the Hissar Division, have also supported my measure. I believe it must be apparent to every one that if opposition could have been expected from any quarter rightly it would be from the Brahmos, for though one of the grounds put forward by me when I introduced the measure was that the Hindu community did not like nor did the Brahmos like that they should be called non-Hindus; from a conversation that I had with one of the leading men in that community, I gathered that if any class of men were affected injuriously by the Bill, it would be the Brahmos, for they would no longer then be a different community but merely a sect of the Hindus and their fate would be sealed, for the absorbent power of the Hindu religion would soon obliterate all differences that existed between the Brahmo and the Hindu. The members of the Adi Brahmo Samaj had opposed the Special Marriage Act when it was passing through its stages in this Council in 1872; but I have the satisfaction of finding that the cultured minister of the Adi Brahmo Samaj, Mr. Satyendra Nath Tagore, who in his letter to the Government says that his community have not departed in any essential particular from Hindu usage or custom or in the matter of marriage in the Vedic ritual, has given me his whole-hearted support, though his community had opposed the Bill which now stands as law. And the other branch of that Brahmo community, the Sadharan Brahmo Samaj—the most go-ahead community in India, who have introduced inter-marriages among them through their enlightened secretary, a man of great scientific attainments, Dr. Nilratan Sarkar, has spoken in no uncertain terms in support of my Bill, not only on grounds of social well-being but also on scientific grounds.

"Well, Sir, my friend to my right (Maharajadhiraja Bahadur of Burdwan) had criticised my Bill as a bomb thrown into the citadel of Hinduism. Bombs are not only the special privilege of Criminal Intelligence Department but of all who shelter themselves behind the buttress of prejudice and ignorance and are always afraid of some extraordinary commotion which may overthrow the little protective works that they set around themselves for their safety. Sir, I am a Hindu. I feel that the eternal verities of the Hindu religion rest not on the slippery sandbanks of superstition and prejudice, nor upon the unreliable support of ignorance and incredulity, but on the more enduring foundations of faith and truth. And my religion stands in no fear of those who are seeking to replace the ephemeral by the abiding. There is a class of critics who have seen in my Bill nothing but evil and who have seen in me nothing but an incarnation of some malignant power bent upon destroying the strongholds of Hinduism. To these I make no reply. But, Sir, I think it is desirable to deal with some of the grounds of opposition—the more prominent grounds of opposition—that have been raised against my Bill. The subject is abstruse and may not be of interest to my European colleagues who are not probably conversant with the operation of marriage laws amongst us and to whom it may be a tiresome story. But to us it is very important, and, therefore, in the best way that I can, I proceed to deal with the principal objections taken against my Bill by the opponents of the measure.

"The first great objection is that my Bill will lead to inter-marriages between the different castes. It will also lead to intermarriage between the different creeds. It will thus lead to the destruction or the overthrow of the boundaries that at present safeguard the Hindu faith. That in fact is the principal objection to the Bill. As my Hon'ble friends will remember, the present Act says that whenever a marriage is going to be contracted under its provisions, the contracting parties are to make a declaration that they profess no known religion in India. My amendment is that this provision should be done away with. All that is necessary should be what has been laid down in other civilised countries where marriages are not contracted according to the ritual of the Church that the parties should declare that 'we intend (that is the language of the Act) to marry under the Act.' That is all that I desire. I believe there is some little misapprehension about the scope of my Bill. In the first place, I intend that marriage should take place amongst the different castes of the Hindus. I do not say that marriage should be without any Hindu ritual. It is quite possible, it is more than probable, that when two Hindus belonging to different castes intend to intermarry, they will go through the Hindu ritual, but that will not validate their marriage at the present time, because under the law as now followed intermarriage between different castes is not permissible. So that, so far as the operation of my Bill is confined to the Hindus, it is more in favour of the Hindus than the present law is, because it does not make it obligatory on the parties to declare that they are non-Hindus. But my friends say while it is more in favour, no doubt in one sense it is against us in another. You are obliterating, they say, the distinctions of caste, you are undermining the purity of our race—that is the argument which I want to meet. They say 'so far as marriages are confined to the sub-divisions of the same caste, we have no objection; you take your Bill, get it passed into law with the unanimous support of the country.' Some of them have said that so far as that is concerned the present Hindu practice and present Hindu law, as understood, would render such unions valid. That is an opinion, which has been expressed by some eminent Hindu lawyers who have given their opinions against me. As Sir Henry Maine has said, it is difficult to contract marriage upon a mere opinion. It is true indeed that in a certain case from Madras to which I made reference when introducing my Bill in this Council, they had held that amongst the Sudras an illegitimate son would be entitled to inherit, and consequently it was argued that illegitimacy is no bar to inheritance amongst the Sudras. And there would be no bar to intermarriage—assuming the argument to be sound, that case was brought to the notice of an eminent Hindu Judge of the Calcutta High Court in the case of *Narayan Dhara* against *Rakhal Gain*. I will not go into the details of that case



gical researches establish this conclusively. If we look at the map annexed to Sir Herbert Risley's book *The People of India*, we find that in Bengal the population is Mongolo-Dravidian, in Southern India entirely Dravidian, in Oudh, in Allahabad also the same; it is only in the Punjab and parts of Rajputana that we find the Aryan in the population. Therefore, whether you treat the question mythologically, historically or scientifically, this claim to exclusive purity is not at all well founded. If this purity has not existed in the past, why insist upon it at the present moment? I shall not dwell further upon that aspect of the question. To me it has been a most unpleasant duty to discharge, but in a solemn meeting like this, duty has compelled me to do so. Then, Sir, it is said that not only will my Bill facilitate intermarriage between different castes of Hindus, it will facilitate marriage with non-Hindus. Well, to me it does not seem to be, I must honestly say, a very dire calamity. There is historical instance of Chandra Gupta, known to Greek historians as Sandracotas, marrying the daughter of Selucas Nikator. There is also an instance given by Tod in that fascinating book of his, *The Annals of Rajasthan*, where a ruler of Mewar married a daughter of Yezdgird III, the last of the Sassanide Kings of Persia. The nobles and princes of Kathiawar still marry into Muhammadan families and the sons born of Muhammadan mothers succeed. There are numerous instances in our Puranas of marriages of Aryans with Nagas. Then we have got marriages of Hindu princesses and Moghal princes in Moghal times. We have still got in the present day in Hyderabad the same practice obtaining without either side losing in caste or in prestige. Why then should there be such a great horror? If anything can give peace to my unhappy country, it will be a feeling that the tie connubial embraces all in its single fold. It is a practice not unknown to our forefathers, it is a practice still followed by our contemporaries. Why then should it be opposed at the present day?

"I pass on to another ground of opposition. I am afraid, Sir, I have been wearying the patience of the Council, but the importance of my subject is my only excuse. The question has been raised: is not marriage among the Hindus a sacrament, and are you going to introduce the elements of a civil contract into a relationship which is the holiest of holy relations amongst the Hindus? I do not desire to do anything of the kind. So far as marriages between Hindus are concerned, they may still follow their rituals, and it is because they may follow such rituals even when intermarrying between different castes that I seek to introduce my Bill. But let us again consider the proposition of those who put forward that marriage is a sacrament, a religious ceremonial, among the Hindus. Is that a proposition which is strictly correct and has been observed at all times? What about the Gandharva marriage that used to take place, marriages of love where only the exchange of garlands was sufficient? The name of Sankuntala has been mentioned in this Council on a previous occasion by a gentleman deeply versed in Oriental learning; a name which is held in esteem, if I may say so, in affection still by the Hindu people of India owing to the immortal writings of our great poet Kalidasa. She married, supposed at that time to be a daughter of a Brahmin priest, a Kshatriya prince by simply exchanging garlands. This is one of many instances that occur in the Puranas, and her son was the founder of that great line which gave the name of Bharatvarsha to India. Well, where was the religious sacrament in that marriage? Where was the religious sacrament in the Sayamvara ceremonies, where prospective husbands used to be invited, and the damsel was given the choice to choose, either by prowess of arms or by the display of learning, the best among the lot, and then after a choice a garland was exchanged: where was the religious sacrament? Manu himself, what does he say? He says, 'the recitation of benedictory sacred text and the sacrifice (with Homa and nuptial fire) in honour of the God Prajapati, are used in marriages for the sake of procuring good fortune to the brides, but the gift of the father is the cause of the status of husband'; so the matrimonial bond arises from the gift by the father. The whole of the religious ritual is only for the sake of procuring good fortune to the bride. This is Manu. Raghunandan, the great commentator on Hindu law in Bengal, says that the real element of



marriage is gift and acceptance. It must be the gift by a person competent to give, and acceptance by a person competent to accept. Where is the difference between a civil contract and this form which is said to be the essence of the ritual? And what does my friend the Hon'ble Pandit Madan Mohan say of the many hundreds and thousands of our people not Brahminical or Brahminised Hindus with whom the putting of a vermilion mark by the bridegroom on the bride's forehead is enough to constitute the bond of marriage? That constitutes marriage among many castes of the Hindus. Are not these marriages considered valid both in our societies as well as in our Law Courts? Where then is the sacrament, the holiest of the holy, of which we have heard so much in the opposition to my Bill? Then, Sir, another objection has been raised, an objection, *viz.*, that if a man has the temerity to marry under this law, there will be the fatal power of divorce vested in the husband as well as in the wife, because the Act which I am seeking to amend provides (section 17) that the contracting parties may seek divorce under the Indian Divorce Act. Well, is divorce such a great calamity after all? I have in my hand a paper by a Hindu lawyer of Bengal who I am told has sent a similar paper to Government. He has cited instance after instance from our Law Courts showing the tremendous misery of many of the lives of our women leading, alas, in several cases, to suicide where the poor woman has had no means of escape from the marriage tie and from the cruelties of the husband. Is nothing to be said in their favour? Is the polygamous husband of India to have it all his own way, and should, in the twentieth century, the Government of British India do nothing for these poor women who are driven to suicide as the only escape from the marriage bond? But apart from that, is divorce itself such an unknown institution among the Hindus? My friends, many of them lawyers, Hindus and Mussalmans, in this Council, will tell you that amongst the lower classes of the Hindus divorce is very common; it is an institution which is freely availed of. What does Manu himself say—I am quoting verse 72, Chapter IX: 'Though a man may have accepted a damsel in due form, he may abandon her if blemished, if diseased, if unchaste, and if she has been given in fraud,' so that a man can put away his wife whenever he likes under those circumstances. And there is another ground with which I think there may be some sympathy: a wife with a sharp tongue may be put aside at once. There is also some right given to the poor woman. The most authoritative Smriti enforced in the Kali Yuga is the Parasara Sanhita, and Parasara says in that well-known verse of his:

নষ্টে মৃত্যে প্রব্রজিতে ক্লীবে চ পতিতে পতৌ ।

পঞ্চদ্বাপ স্ত নারীগাম্ পতিরণে । বিধীয়তে ॥

(If the husband dies, if the husband is lost, if the husband deserts, if the husband is afflicted with physical infirmities, if the husband incurs forfeiture of caste, under these five circumstances, a woman is at liberty to marry again.) This is not an unknown text which I have brought out. It was upon the validity of this text that the great Hindu widow remarriage movement began, and upon which the Hindu Widow Remarriage Act was passed. This is the text of Parasara, the authority of which could not be disputed, so that the Hindu law-givers Manu and Parasara gave liberty both to the husband and the wife to untie the marriage knot. Well, Sir, if monogamy is the highest ideal of marriage, there must be some relief, and I will, with your leave, quote a passage from Herbert Spencer:—

'The monogamic form of the sexual relation is manifestly the ultimate form, and any change to be anticipated must be in direction of the completion and extension of it. As monogamy is likely to be raised in character by public sentiment requiring that the legal bond shall not be entered into unless it represents the natural bond, so perhaps it may be that the maintenance of the legal bond will come to be held in horror if the natural bond ceased.'

"And because there may be divorce, why should we be so afraid of it? There is a divorce among the Mussalmans of India; in how many cases has it been found to operate harshly to the prejudice of the husband or the wife? Where is the complaint from the great Mussalman population in India? In

Patagonia, a marriage is a marriage at will, yet when one has occurred they seldom forsake each other even in extreme old age. And says Dr. Brinton, a great authority on social relations, in his book on the *Basis of Social Relations*: 'facility of separation is a potent stimulus to connubial harmony. Licentiousness therefore is not synonymous with loose marriage relations, but the reverse.' These are the observations of learned scientific men who have had an opportunity of studying these conditions in the countries of the West.

"There is then another question raised, and a question I admit of some seriousness, that it will introduce confusion in our joint family life. This is an aspect upon which the Government of the United Provinces have urged: it will introduce confusion in our homes and our laws of succession and inheritance. I was present at a meeting of the Social Conference where a gentleman from the Punjab depicted in lurid colours the horrid situation that will arise in a Hindu home if a girl of the family were to marry a Muhammadan and have children. I do not know if such a contingency will ever arise. Or, supposing it does arise, does it arise for the first time under my Bill? What is the law at the present time? That you can contract, or, to use the expressive language of my friend the Hon'ble Mr. Subba Rao, that anybody can marry anybody else under the present law, only the contracting parties have got to make a declaration that they do not profess the Hindu or the Muhammadan faith or any other faith in India. Well, supposing a member of a joint Hindu family makes that declaration and marries a Moslem; what is it that can save the family from putting up with him in his own home except by seeking separation? My Bill will do nothing more. It will simply save the parties from making a declaration which may not be true. But even that declaration is not necessary under certain circumstances. If the Muhammadan member of a Hindu household is objectionable, I believe a Christian member of a Hindu household is equally objectionable. Under the Indian Christian Marriage Act, it is not necessary to make any declaration if one of the contracting parties is a Christian; so the Hindu man or woman can easily marry a Christian wife or husband and introduce the husband or wife into a Hindu home; the only protection now being a separation or division of the family. The same protection will apply even if my Bill ever becomes law. There is another fact which the opponents have overlooked, namely, the provisions of the Act known as the Lex Loci Act. In that Act, supposing the brother of a Hindu householder embraces the Muhammadan or the Christian faith, he succeeds. Not only does he succeed, but that Act has been considered by the Allahabad High Court to extend so far that his sons will succeed. If my brother, for instance, under the law as it now exists, embraces the Moslem faith, marries a Moslem wife and has children who follow the Moslem faith, and if I die without sons, my Moslem brother or Moslem nephews will succeed just as well as my Hindu brother or Hindu nephews would succeed. Where then is the difference that my Bill will introduce into the existing law? If there are difficulties, if there are elements of confusion in a Hindu home, in the Hindu social life, these difficulties, these elements of confusion, exist to-day just in the same degree as they will exist if my Bill becomes law. It has been held by the Privy Council in the case of the Chief of Majidia, Sardar Dyal Singh, that a Sikh or a Hindu by becoming a member of the Brahmo Samaj does not necessarily cease to belong to the community in which he was born. It was held in a case in Indian Law Reports, 25 Bombay 551, where a Hindu convert to Muhammadanism after his conversion gave away his Hindu son by a Hindu wife to a Hindu brother, that that adoption was valid; and in Bengal a Brahmo gentleman who practised Brahmo rites was allowed, under the Act which I am seeking to amend, to give his son born as a Brahmo and observing the Brahmo rites for adoption to a Hindu brother, and that adoption was held to be valid. All this confusion does exist; mine will not make it worse confounded, if there is confusion at all. Sir, these are the questions, the principal questions, which the Hindu opponents to my measure have raised. I have dealt with them, so far as I am able, to show that their fears and apprehensions are unfounded and unjustified.



"I will now deal, and deal very briefly, with the principal objections of the other communities. Our Moslem friends outside this Council—not all of them, but some of them—have also opposed my measure. Well, there are authentic cases of unions with Moslems and non-Moslems—authentic cases in our country as well as elsewhere. There is one objection which I can appreciate, though in my time of life it is difficult to sympathise with it. An esteemed friend from Dacca, brought into an unenviable notoriety by a recent speech in the House of Lords, protested against this measure on the ground that it will not be possible to indulge in the privilege or rather to exercise the privilege of polygamy if this Bill became law. Whether polygamy is a good or a bad institution I do not propose to discuss. The Mormons of America have adopted it, and probably there may be something good in it after all; but my friend need not be afraid that he will ever be disabled from keeping a full harem if my Bill passes into law, for he need not marry under my Act at all. It is a voluntary measure, an enabling measure, of which Muhammadans—and their number is happily growing small—who seek to still continue the polygamic habits of their ancestors in Arabia, need not be afraid. But it may afford great protection to those who seek to safeguard the interests of their daughters or sisters. No provision in a Muhammadan marriage contract—and I have had my hand in the framing of these contracts just as much as any Muhammadan Member of this Council has had—can give absolute right of protection in this respect. With the facilities that now exist of travel in foreign countries where young men go for study or for pleasure, it becomes an increasing danger to the girl-wife or to the father of the wife, and I am quite confident that many Muhammadans would avail themselves of the provisions of this measure to marry their children under the Act if they are not made to deny their faith, so that they can be saved from any future fears. Among the Muhammadans, marriage with a non-Moslem confers upon the children rights of legitimacy. Whatever may be thought of the marriage itself—and there are divergent schools of thought upon it—there is no difference about the legitimacy of the children; they are not affected at all. It is curious that what troubled my friend at Dacca also troubled a strong Hindu opponent of my Bill, Mr. Bhajekar, in Bombay. I am sorry to say that in his note he says, if my Bill passes into law, that it will render impossible for a Hindu husband to remarry if he is denied the blessings of a child from his first union. Well, if the powers of adoption that a Hindu has are not sufficient, my Act is not obligatory, and a Hindu husband who wants to keep in reserve the right to marry again at some future time during the lifetime of his wife, he need not marry under this Act at all. Sir Roland Wilson, a great authority of Muhammadan Law and Jurisprudence, says at page 66 of his Introduction :—

"Supposing it were possible to ensure the exact conformity of judge-made Anglo-Muhammadan law to the standard of the 13th, 17th or 19th century orthodoxy, the graver question would remain, how far this state of things would be likely to give satisfaction to Indian Muhammadans of the 20th century. Considering the intellectual ferment now going on among Indian Muhammadans, and looking to the wide publicity given to the views of Mr. Justice Ameer Ali, it is difficult to suppose that there are none who would jump at the opportunity of contracting a legal marriage on a footing more distinctly monogamous than can be secured by even the most carefully drawn contract under Anglo-Muhammadan law if the thing can be managed without the formal procedure as required by Act III of 1872?"

"And this is what I seek to remove—the formal procedure inculcated by Act III of 1872. Mr. Justice Ameer Ali, a great Muhammadan authority, has welcomed such a proposal. Sir Roland Wilson thinks that such a proposal would be a great benefit to many Muhammadan reformers of our country.

"As regards the Parsis, there has been opposition no doubt to my Bill from the Parsi community of Bombay, but there has also been strong support from Parsi gentlemen and Parsi organs of public opinion. As I said, the newspapers *Parsee* and *Oriental Review*, both of them Parsi journals, have given me their whole-hearted support. There is a fear in the Parsi mind, the Parsi is exclusive naturally from his position of isolation as the Hindu Brahmin is, and he does not want to admit into this fold the non-Parsi. But the Indian Christian Marriage Act enables him to do so. There was a great



fight in Bombay over the marriage of a Parsi gentleman with a French lady, and I believe the fight ended in a victory for the French lady. However that may be, their position will not be worse.

"This is, then, briefly the position of the different communities, Hindu, Moslem and Parsi. With regard to the effect that my Bill would bring about if it became law, I ask my Hon'ble friends including members on the Government side, as to whether the effects are such as may be at all described as revolutionary. Many of the Local Governments, while sympathising with my Bill, have found it impossible to give me their support. The Government of Bombay is sarcastic; it says—who will look after the masses of India? They will be dissatisfied with this measure, they will not blame Mr. Basu or his party, but they will blame the Government. I should like to put a question in reply: when does this Government of Bombay think the masses of India will come to appreciate this Act and to marry under it? When they do come to think what it means, they will not blame the Government of India, but bless it for having allowed Mr. Basu to get it passed into law. But that is another question. It is the fate of all reformers to meet with ridicule and contempt. My friend, the late Home Member, who we all regret is no longer in our midst, said, when I introduced this Bill, 'before we proceeded further, the Hon'ble mover of the Bill should be able to assure us that he had behind him the full and almost undivided support of all the communities who are affected by it. It is a fixed principle of the Government of India not to interfere in any way whatever with the personal laws and customs of the different peoples of India, unless they have strong and conclusive evidence that the change is desirable, and that is the policy to which I hope I shall continue to adhere.'

"Sir, is this a condition which at any time is capable of fulfilment? Is this a condition which was kept in mind by the Government itself when it introduced measures which had the effect of removing social disabilities from the people of India? If not—and the answer must be an emphatic no—why should that condition be insisted upon in my case? Take the case of progressive England itself. Take the Deceased Wife's Sister's Bill. If the condition was that it would not be passed into law until it had the full and almost undivided support of the community, I am afraid it never would have passed into law. If that is the condition of things in Western countries, the position in my country is much worse. In the first place, we have got to deal with a peculiar society—a society conservative in its inmost fibre. We have to deal with a great amount of superstition and prejudice and ignorance. A time may come when, after my friend the Hon'ble Mr. Gokhale's Bill is passed into law and education has spread amongst the masses, when probably the masses will demand it and it will be irresistible. But in the meantime what of those who think, from conscientious grounds, from grounds of social policy, that intermarriage ought to be permitted? We are asking for nothing more than personal liberty of faith and practice, and if personal liberty of faith and practice does not encroach upon any other rights, upon rights of any other people, does not subject them to any appreciable injury and if the exercise of it is not immoral, no country in the world ought to stand against it. I was referring to the state of my country. I will briefly, in the language of a very high authority, place before you what that state is. There is a well known passage in the Vishnu Samhita—

কলৌ শূদ্র সমাপন্য যথা ক্রত্বা যথা বিশাঃ।

that in the Kali Yuga everybody is a Sudra except the Brahmin, so that we have not got the four Varnas which originally prevailed in India. Buckle says:—

'To the great body of the Indian people the name Sudra is given'—I am quoting from volume 1, page 78—and the native laws respecting them contain some minute and curious provisions. If a member of this despised class presume to occupy the same seat as his superiors, he was either to be exiled or to suffer the most painful and ignominious punishment. If he spoke of them with contempt, his mouth was to be burnt. If he actually insulted

them, his tongue was to be slit. If he molested them, he was to be slit. If he molested them, he was to be put to death. If he sat on the same carpet with a Brahmin, he was to be maimed for life. If, moved by the desire for instruction, he even listened to the reading of the sacred books, burning oil was to be poured into his ears. If however he committed them to memory, he was to be killed. If he were guilty of a crime, the punishment for it was greater than that inflicted on his superiors; and so on, and so on.

'And lest this should not be enough to maintain the subordination of society, a law was actually made forbidding any labourer to accumulate wealth, while another clause declared that even though his master should give him freedom, he would in reality be still a slave, for, says the law-giver, 'of a state which is natural to him, by whom can he be divested?'

"The natural state being slavery, by whom, indeed, could he be divested? And the learned author goes on to say: 'I ween not where that power may be, by which so vast a miracle could be worked.' I believe that power is in our midst to-day. It has been said that the Government of England in India is a providential arrangement. To us, Hindus, it is really so. It is the hand of British rule in India that will lift the Sudra, the non-Brahminical communities, from their present position. It is that which is my hope; it is that which is my trust.

"Sir, I am not sanguine enough to believe that to me will be given the satisfaction of seeing my Bill passed into law. I am but a faint and weak worker in a difficult field; but though to me may not be vouchsafed even the Pisgah sight of the promised land, the standard that I carry, though it may fall from my hands, others stronger, others mightier, others wiser than myself, shall rise, and they certainly will carry it forward to its goal."

**The Hon'ble Mr. Dadabhoy :** "Sir, I beg to support the motion, and in doing so, I must state powerful reasons have influenced my vote. When the Bill was introduced I pointed out that my community would be opposed to it. At the same time I supported the motion for leave to introduce it, on the ground that the people would then have an opportunity of examining it and of submitting to Government their varied views. It followed that I would be free to offer at a later stage any remarks mature consideration might suggest. My apprehensions about the attitude of my community have proved true; Parsi opinion generally is unfavourable to the Bill. But I cannot but feel the opposition is based upon an inadequate appreciation of the exigencies of the situation. The Bill does not specially affect us,—Parsis. It contains no provisions opposed to the fundamental principles of the Parsi Marriage Act or to the existing practices of the community. Monogamy and divorce, the principal characteristics of the Act on which new provisions are sought to be grafted, are familiar to us. The only features disagreeable to the average Parsi are the removal of the existing bar to intermarriage between Parsis and non-Parsis, while the parties remain faithful to their respective religions, and the omission of the *asirvad* ceremony. I will deal with the first objection along with similar objections of the other communities; and, as to the second, if any member of the community attach no particular importance to the ceremony and choose to dispense with it, I do not think the legislature can be expected, by the enactment or perpetuation of restrictive legislation, to prevent a lapse. It is worthy of note that a large number of educated Parsis are in favour of the Bill.

"Sir, any discussion of the merits of the Bill must relate (1) to the principle, and (2) to the details. It will be quite in accord with the rules of business and the practice of the Council to leave the details to be settled in Select Committee. Any examination of the Bill at this stage must therefore be confined to the principle. Now three main considerations suggest themselves in this connection :—

- (a) whether the proposed legislation is absolutely desirable ;
- (b) whether it is necessary ; and
- (c) what are its principal effects upon society ?

"If the Bill is absolutely desirable and necessary, unless its social and political effects are injurious, it deserves the support of this Council. Judged by this



test, the Bill under discussion, in my humble opinion, eminently deserves support. 'Public good is the object of the legislator.' It follows as corollaries that improvement of the morals of a community and social purity, promoting as they do 'public good,' are worthy objects of pursuit by the legislator. Now marriage affords the best guarantee of good morals and purity. The removal of artificial bars to marriage, encouraging as it does marriage, must be *pro tanto* beneficial to the community. It is exactly this demolition of bars which forms the underlying principle of the present Bill. The Bill seeks to remove the existing limitations to Indian marriages. That numerous limitations exist the oppositionists themselves admit, and the principal objection to the Bill is that it will, if passed, do away with those limitations and facilitate marriage. Apart, therefore, from the social and political consequences which will follow from it, the proposed legislation is undoubtedly desirable.

"Dispassionate consideration will show that it is likewise necessary. The burden of the opposition is that it is unnecessary and the people have not moved Government for it. Sir, in criticising the Bill, two facts should be borne in mind. In the first place, the days of Petitions to the Legislative Council are past, and the reformed Council, with a large non-official element in it, is dealing with the subject; and, in the next place, a non-official Member in close touch with orthodox Hindu sentiment has introduced the Bill. Government are no longer left to proceed in the matter of legislation on their own initiative, in intelligent anticipation of the needs of the situation. They have the help and the co-operation of the accredited representatives of the people. In the light of these facts the objection that the people have not moved Government for fresh legislation regulating marriages, loses point. A representative Indian has brought forward the Bill; Government have been moved in the best way desirable in the altered conditions.

"The recent important changes in the social condition of India accentuate the necessity for such a Bill. Forty years have passed since the enactment of the law it is now proposed to amend. The period has been one of all-round activity among Indians. Education has made enormous progress; the number of young men—Hindus, Muhammadans, Buddhists, Parsis and Jains—educated abroad is growing apace; with increase in the facilities of communication there is freer intermixture among the different communities. Caste hangs loosely to-day about the Hindu; his religion and caste rules do not prevent him from associating socially with the members of the sub-castes and other castes, and even non-Hindus, with the utmost freedom. Travel has only encouraged such associations. The *purdah* is being gradually lifted. Hindu ladies even go abroad for education and sight-seeing. English education, with its powerful emancipating influence, has gone on unchecked, dissolving old separatist ideas of the various Indian races. The history of the progressive countries of the West and the brilliant success of an Asiatic nation knit together by common ties of marriage and social intercourse have powerfully struck the imagination of the impressionable Indian and have changed the national ideal. Young men and young women of different castes and persuasions have been brought together, with the result that not a few inter-castal and inter-provincial marriages have taken place. Hindu ladies of Bengal have been married to Punjabis, Madrasis and Europeans. Hindus of Madras have married Burmese girls. Even Muhammadans have evinced a desire for marital relationship with Hindus. Last year I happened to see an advertisement in the *Bengalee* newspaper by a Muhammadan zamindar for the hand of a Hindu girl. This is a significant fact and has its moral. There is now in the country a greater desire for intermarriage and for a simple form of marriage. Whether this desire should be fostered by Government or not, is a different matter; but it is a legitimate feeling and when it does exist the legislator should take note of it, and any indifference on the part of this Council would cause acute disappointment among people, who, though numerically small, by their culture, knowledge, intelligence and position, wield the greatest influence in the body politic. The Arya Samaj has again under-



taken to receive back into the fold of Hinduism all penitent backsliders by a purificatory ceremony known as the *Sudhi*. To these neophytes proper facilities of marriage are of the first importance. For long years to come they will not be able to establish marital relations with orthodox Hindus; the fact of their having renounced either Muhammadanism or Christianity will be a serious obstacle to marriage with the votaries of those religions. The marriage problem, again, in some parts of the country has become serious. The difficulty of getting suitable husbands for their girls is felt more or less keenly by Hindu fathers; necessity is helping the cause of social reform and making exogamous marriage increasingly popular. The questions which confront Government therefore are,—How best to meet the difficulty created by these various circumstances? How to lead this new feeling of the people into safe channels? How to insure good public morals in the new situation? To discourage illicit partnership and to promote marriage, will be the only prudent course. It is precisely with this object in view that the Bill has been introduced.

“Act III of 1872 does not meet the exigencies of the case. For the realisation of this truth, it is necessary to examine another important set of circumstances which have caused a marvellous development of the religious feeling in the country. Alongside of the disintegrating forces noted above, powerful causes producing in the mind of the Hindu a passionate attachment for his ancestral religion have been at work, without neutralising the effects of those forces. The past forty years have seen the Hindu Revival, the finale of which it is difficult to foresee. The labours of the Theosophical Society and the successful missions of Hindu religious preachers to the West, resulting in the conversion to Hinduism of several American ladies and gentlemen, have given a new direction to the Hindu genius. The Hindu, with all the acquired veneer of anglicism that strikes a stranger is now a firm believer in the fundamental truths of his great religion. The ritual he may discard, but he will not renounce the dogma; he refuses to be called anything but a Hindu. When the religious feeling is strong, conscience plays an important part in the acts of life. Now marriage is one of the most solemn acts of Man, and naturally the Hindu objects to disown his religion even for the sake of his fiancée. And he has a right to expect the legislature to respect his feeling; he is entitled to have a simple declaration form instead of the one provided in Act III of 1872, whereby he engages to be dutiful towards his partner through life, and not involving any renunciation of his faith. This is a question of conscience, and strict neutrality in social and religious matters on the part of Government is perfectly consistent with a respect for his conscience.

“The orthodox Hindu argues, the Hindu who wants to remain a Hindu must not think of marrying except in the conventional manner and cannot have any difficulty in so marrying. But the operation of the forces noted above must incline young people to consult their own wishes in the matter of marriage and not to leave it to be determined for them by their elders in the customary fashion. With the greater assimilation of Western ideas their views about marriage have expanded. The complaint last year was that the Bill would ‘shove a dynamite into Hindu society.’ I would remind the Hon’ble Member who made that remark that he mistook the effect for the cause. The Hindu society has already had dynamites shoved into it in Western civilisation and Western education. The Bill only seeks to render the explosion harmless and to prevent improper relations. We must take human nature as it is, and must be prepared for attachment among young people, from different parts of the country and from different races and communities, thrown together by the force of circumstances. Is it prudent for Government to ignore the fact, or is it wise for them to give the new sentiment a proper and legitimate direction? The duty of Government is clear. Sir Fitzjames Stephen, as Law Member, indicated it in language which should be recalled on this occasion:—

‘That English education in all its forms leads straight away from all forms of Native orthodoxy, is a proposition which I have never yet heard disputed. How can we sow the seed and refuse to recognise the crop?’

"The solution of the matter cannot be left to society. Exogamous marriage and intermarriage between different races are not recognised in Hindu society. Even if there be no objection to the ritual, there is the ever-present difficulty of getting priests to officiate at such marriages. That difficulty obviated, the legal difficulty arises. Custom alone will validate mixed marriages, but in view of the rigidity of the present-day judicial administration, new customs cannot grow.

"Sir Henry Maine noticed the difficulty years ago in words which gain force with time and experience :—

'It must strike every observant man that, by our introduction of legal ideas and our administration of justice through regular Courts, we give a solidity and rigidity to Native usage, which it does not naturally possess. It seems to me that, in order to prevent the monstrous injustice which occasionally results from this process, we must control it by the proper instrument—timely legislation.'

"Old Hindu society would appear to have been catholic and tolerant; social rules were undoubtedly elastic. Mixed unions, though perhaps not strictly shastric or respectable, were recognised in society, and gave rise to whole castes and sub-castes. The Vaidyas, for instance, now an important and influential class of Hindus, trace their origin to intermarriage between two castes. Tradition assigns a similar origin to Barnwars. The *Kales* of Burma are a hybrid class. During Muhammadan ascendancy, intermarriage between Muhammadans and Hindus was not unknown. There is, I understand, in North Behar a class known as *Nats* who might equally be claimed by Hindus and Muhammadans, but who pass off as Hindus. In the absence of an authentic history, it is difficult to dogmatise, but the guess might be hazarded that they are a mongrel class. Why speak of mixed marriages only? Hindu society has been tolerant of even liaison, and large classes of Hindus have grown with a recognised social position out of amours. *Kisenpachis* and *Kasials* are well-known in the country. It is this tolerance, this elasticity of social rules, which assured to Hindu society the remarkable vitality which has impressed non-Hindus so much. Even now mixed marriages are recognised in different parts of the country, and form a notable feature of Hindu society. In Guzrat, Nepal, Assam and East Bengal intermarriages are common. But custom is an indeterminate quantity. In the present state of Case Law doubts of a more or less serious nature will attach to customs which have not already been recognised by the Courts. And this latter condition may be said to be fulfilled in respect of a very few customs of intermarriage. In Burma, intermarriages between Hindus and Burmans which, according to informed Indian opinion, are 'extremely' and 'increasingly common' and in which 'both the parties consider themselves properly and legally married,' have been condemned by the highest local judiciary as illegal and invalid. In Guzrat doubts are entertained about the validity of intermarriage between the different castes and sub-castes. The Commissioner, Northern Division, in the weighty opinion he has recorded has noticed the fact :—

'I am informed that for some time past marriages between persons of different castes and sub-castes have taken place in Guzrat; some of these castes and sub-castes have become so reduced in numbers of late years that they are in danger of extinction and it has been found necessary to look for brides outside; these marriages, although the usual religious rites were observed, may not be upheld by the Courts, it is feared, as being opposed to ancient custom.'

"Even mixed marriages among Arya Samajists are of doubtful validity. In a case reported in 3 Allahabad Law Journal, a marriage between a Brahmin and a Kshatriya has been held invalid as opposed to custom. The Hon'ble Mr. Gokuldas Parekh computes so many as 200 families of Bhatias have intermarried with 'Hardwar maidens.' The validity of these marriages is not beyond doubt. Mr. Parekh also points out that in Porbundhar and Cambay, Hindu girls are converted to Muhammadanism and married to Muhammadans, *because they cannot contract a legal marriage with Hindus of other castes*. This is a serious position in all conscience. Hindus, again, have begun to migrate to distant countries. There are numbers of them in Canada, West Indies, Uganda, Zanzibar, South Africa and Mauritius. In



Zanzibar, at any rate, intermarriage with native women is fairly common. The question naturally arises, what will be the status of the issue? Can it be said with justice in these circumstances that the Bill, aiming as it does to put the validity of intermarriage beyond doubt, is unnecessary? The amount of support the Bill has received from judicial officers is remarkable. The Judicial Commissioner of Oudh, for instance, reports :

‘I have consulted thirty-four judicial officers and they are almost unanimous in support of the Bill.’

“I believe the current of judicial decisions, declaring intermarriage invalid unless sanctioned by well-established custom, accounts for the support. Sir, if ever legislation of this sort was justified by the circumstances, the amendment proposed is, as tending, in the words of the Collector of Broach,—

‘to lessen the number of those painful cases so often seen in which the parties are condemned to concubinage degrading to both parties, simply because a legitimate marriage is impossible.’

“In the interests, therefore, of morality and humanity in the existing condition of society the Bill is both eminently desirable and necessary.

“The third point to be considered is its effect upon society. In a country like India the effect of legislation undertaken for the removal of social disabilities is twofold,—(1) upon society and (2) upon the feelings of the people towards Government. Now society will only gain by the enactment of the Bill. Anything which improves public morals is a distinct gain to society. The special communities which make up the Indian nation will profit by the Bill. Hindus, Muhammadans, Christians and Parsis who have submitted adverse opinions on the amendment apprehend that it will have disastrous results. Their apprehensions are, in my humble opinion, unreal. Strict adherence to Islamism does not prevent Muhammadan marrying non-Muhammadans. Even Moghal Emperors took to themselves Hindu wives. Many Muhammadan gentlemen who have been to England have married English ladies. Muhammadan gentlemen like Mr. Justice Karamat Husain support the Bill. In the orthodox Punjab, Muhammadan opinion would appear to favour the change. The Muhammadan Divisional Judges of Jhelum, Sialkot and Hissar recommend the proposed enactment. Then, instances are not rare of Christians marrying non-Christians. The Hon’ble Mr. Maung Bah Too, C.I.E., late a Member of this Council, points out in his letter to the Burma Government, ‘irregular unions with Burmese women are very common among Christians.’ There is nothing repugnant to Christians in marriage with non-Christians. After the enactment of the Indian Christian Marriage Act of 1872, such marriages did take place ‘in divers parts of British India,’ and they were so numerous that the legislature had to validate them by a special law—The Marriages Validation Act II of 1892. These facts shew at least this much that there is a genuine desire among the community for marriage with members of the non-Christian communities, and that, facilities provided, such marriages would be common, thereby reducing to a minimum immoral attachments. These two communities thus will not suffer any inconvenience. Their social conscience will not be shocked at mixed marriages.

“Both Hindus and my co-religionists labour under a misapprehension. There have been mixed marriages in the past, but conversion to other religions generally preceded the marriage. The Bill will not change the position of the community, and the only innovation will be that the preliminary conversion of the Parsi desirous of contracting a heterodox marriage will be rendered unnecessary. But this is a matter which is entirely of personal interest to the individual concerned, exclusively a matter of individual conscience, not affecting the community either way. The Hindu fears provide a psychological problem. During the controversy on the Hindu Widows Remarriage Act and the Special Marriage Act, their grievance was that the legislation would encourage secession and involved an injury to society; and now when relief is sought to be given to honest members of their community who refuse to abjure their faith, the charge is that unwelcome persons would call themselves Hindus. Sir, it is outside the province



of the legislature to settle and define what Hinduism is. If a particular act of a Hindu is revolting to orthodox opinion, it is open to the community to punish him by social interdiction. The heterodox Hindu must settle his differences with the community the best way he can. But unless the act of heterodoxy is opposed to public policy or public morality, the legislature will certainly enable him to do it. The observations of Mr. Peacock, afterwards Sir Barnes Peacock, on the Hindu Widows Marriage Bill have a point on the present occasion :

‘ If a person believed it to be his imperative duty to do an act which would not be an injury to his fellowmen or to society at large, the legislature would not forbid him to do it.... What was there in this Bill which would prevent any Hindu from following his or her belief ..... ? What was the imperative duty which it would prevent any Hindu from performing ? ’

“ This lays down a sound principle of legislation, and Hindu society cannot justly complain if by special legislation a Hindu is enabled to marry in a way which is not customary. Besides, Hinduism is a comprehensive term ; it includes almost every shade of religious belief from pure theism to animism. Classes of the most varied types are called Hindus. How will the community suffer if, by intermixture, new varieties are formed ? The effect upon society of the Bill cannot be injurious ; on the contrary, it will be wholesome. Likewise the effect upon Indian loyalty cannot be serious. The Bill comes in in the natural process of evolution. The course of past legislation inevitably leads to it. Whatever shock Indian sentiment now receives is as nothing compared to that which it received first by the enactment of the Caste Disabilities Removal Act, otherwise known as the *Lex Loci Act*. The Widows Remarriage Act, the Special Marriage Act and the Age of Consent Act have hardly had much disturbing effect upon the people. There was a temporary ferment which subsided the moment the law was passed. The present Bill has not even excited the serious opposition which the other laws did ; it has received a measure of support from the educated classes which is quite refreshing. Both for volume and weight that support is remarkable. It is true the Local Governments have recommended the rejection of the Bill, but experienced local officials, having the best means of ascertaining the feelings of the people, do not apprehend any serious consequence, and many of them support it. The conclusion that Indian loyalty will remain unshaken and no commotion will be created in the country by the law, appears legitimate in these circumstances. Sir, worse fears were entertained on the occasion of the passing of the Special Marriage Act, but history has falsified them. Lord Northbrook, then Viceroy, disposed of them in words that have proved prophetic :—

‘ The impressions which have been so much spoken of might, I admit, have more sway with a certain middle-class of Natives, who are partly educated ; who are disposed to criticise and appreciate the policy of Government without being fully cognizant of its real views ; who are strongly attached to the old standards of faith and social life, and are suspicious of innovation from authority—in fact, who are half-enlightened. I admit..... that there is a class among whom a Bill of this character may be regarded as an aggression on the part of Government, or, if not as a direct aggression, as a measure under cover of which the institutions of religion and caste may be gradually sapped and weakened. But, even here, I think that, if the question is allowed to subside into silence, little durable effect will be produced. The operation of the Bill will be rarely felt or seen. It will cease to attract attention. It will die out in the popular memory, and be forgotten. Nor must we forget that, as education becomes more diffused, the suspicions and resentments to which I have alluded will have less and less force. What gives offence now will give no offence a few years hence.’

“ There is even less justification for alarm on the present occasion. The Bill has been criticised with a sobriety and calmness which provides the best augury for the future, and I feel confident people will cease to think of the law once it is passed, except those who want to avail themselves of its provisions and whom alone it vitally concerns.

“ Sir, exception has been taken to the Bill by the Muhammadans because it makes polygamy impossible as also because marriage is a religious union as much as a civil agreement. The first objection is not entitled to any serious examination. The argument cannot prevail in civilised society. The practices of the community belie the second proposition, be it ever so correct

in theory. Of all marriages in India a Mahomedan marriage is perhaps the nearest approach to a civil contract.

"The Hindu disapproval of the Bill is founded upon the fears that marriage under it would lose its legitimate character of a sacrament, and it would weaken the caste system, encourage undesirable unions, and introduce into Hindu society divorce. With regard to the first objection, it is enough to invite the attention of the Council to the pointed observations of Sir Narayan Ganesh Chandavarkar:

'Hinduism, in spite of its sacramental idea of marriage, permits customs, prevalent among some castes within its fold, which make marriage more or less a civil affair. There was a case the other day in the High Court in which it was found that, in a certain caste of Hindus in Guzrat, a custom prevailed by which a man and a woman could legally become husband and wife by merely agreeing to live together as such without any religious ceremony.'

"It is difficult to find much of religiousness in the *sagai* form of marriage which is prevalent among Sudras in many parts of India. Leviratical marriages are also not rare in Orissa and other provinces. Of the eight forms of Hindu marriage, some at least have not religion as a base. In the next place, caste has already lost much of its traditional vigour through Western influence, and the weakness apprehended will go on increasing as long as that influence lasts irrespective of enabling marriage laws. The Bill, far from causing disruption in Hindu society, will strengthen it by preventing secession of members, cultured and influential, who would do honour to any community, because, presumably, those are the men who would place themselves under the operation of the new law. Thirdly, the bogey of discreditable marriages is familiar. It was strutted out with disagreeable frequency during the controversy on the Special Marriage Act of 1872, but the past 40 years have disillusionised the public. The risk is exaggerated. As Mr. Ashworth, Legal Remembrancer to the Government of the United Provinces, observes:

'The Bill will make marriages conducted under it legal, but it will not *per se* make them respectable.'

"Few men are so impervious to the wholesome influence of home and society as to seek disreputable unions. Fourthly, divorce is not unknown in Hindu society. It is common enough among the lower orders. Be that as it may, it is inconceivable that for long years to come those Hindus who will marry under the Act will have a recognised place in Hindu society. The introduction of a new principle of social existence will not therefore affect orthodox society within a reasonable length of time.

"While these are the special grounds of opposition on the part of the Hindus and Mahomedans, the other communities join them in assailing the Bill as unnecessary, premature, officious, disquieting in the matter of intestate succession to property and opposed to the professed neutrality of Government. I have shewn above the amendment is necessary. The second contention is beautifully vague. There is no standard of maturity in such matters. In a society, notorious for its indiscriminating conservatism, at no point of time can such legislation be said to be absolutely free from the charge of being premature. The Caste Disabilities Removal Act and the earlier Regulations it embodied were, to not a few, premature; the Hindu Widows Remarriage Act and the Special Marriage Act were likewise condemned by many as premature. And yet no harm has ensued so far to society. The legislature has at times to legislate in advance. In this matter of intermarriage, the existing situation is grave enough to demand the sympathetic attention of Government. If the Bill is rejected, the result will be that a Validation Act will have to be passed before long to remove the doubts thrown upon existing marriages by the Courts. How then is the Bill premature?

"There is no merit in the third objection that the Bill is thrust upon a community that has not wanted it. I have dealt with this point above. I only place before the Council a statement of facts made by Mr. P. C. Sen, Official Assignee of Burma:

'The Kalay and Ponna communities of Burma have often requested me to petition the Local Government on their behalf to pass an Act declaring such (mixed) unions to be legal and the issue legitimate.'



" With time some such law is wanted by an increasing number of people. The contingency of the whole body of Indians moving Government for such legislation is impossible. There is, however, some force in the contention that intestate succession will become difficult and doubtful if the Bill is passed without modification, and it will be proper to remove all doubts regarding the succession of the issues of mixed marriages between the followers of different faiths by making the Indian Succession Act applicable to them, as Mr. Justice Sankaran Nair suggests. But this is a matter of detail which must be examined in Select Committee. It does not affect the principle of the Bill.

" The last objection is baseless, and the fact of its having been made common ground by all the communities justifies the suspicion that it is spurious. In no community are social functions so bound up with religious observances as among the Hindus. A marriage law like the one proposed will surely not interfere with the religious performances of any community, much less of the Mahomedans, Jews and Parsis. Then Hindu Religion in danger is an old cry. Government has disposed of it in a statesmanlike way in the past. The reply given by Mr. Grant, afterwards Sir John Peter Grant, in the course of the debate on the Hindu Widows Marriage Bill, is applicable today with the additional force which subsequent experience has lent to it :

' It was said that this measure would interfere with the Hindoo Religion ; and it was also said that this measure, though in outward appearance merely a permissive Law, was in point of fact a coercive law.'

' There was no foundation whatever for the first of these objections. The Bill left every Hindoo free to act in accordance with his own religious views. But it would be an interference with Hindoos in their religious concerns if the Council should refuse to pass this Bill. .... If, when 5,000 Hindoos came forward and asked to be relieved from the operation of a Municipal Law which prevented their acting in this matter according to their convictions, the Council allowed that Municipal Law to remain in its present state, then indeed would it be interfering with the religion of a large body of Hindoos ; but if it did relieve the Petitioners, and all who think with them, from the restriction of the Municipal Law of which they complain, he denied that this would be an interference with the religion of any human being.'

" Sir, the truth is this has been, and for generations to come will be, the shibboleth of unmeaning conservatism, and if Government stay their hand out of respect for the feeling, necessary social legislation will be impossible. Government policy in the past has been more liberal. The *Lex Loci Act* was passed when there were dense ignorance and, as a consequence, over-sensitiveness in social matters in the land. The petitions of 60,000 persons against the Hindu Widows Marriage Bill were, as the Hon'ble Mr. Basu pointed out, justly disregarded by Government. Mr. Grant made the bold pronouncement of policy which did him honour and which ought to be inspiring to us :

' If he knew certainly that but one little girl would be saved from the horrors of *Brahmacharia* by the passing of this Act, he would pass it for her sake ; if he believed, as firmly as he believed the contrary, that the Act would be wholly a dead letter, he would pass it for the sake of the English name.'

" Violent opposition was similarly evoked by the Special Marriage Bill and the Age of Consent Bill, but British statesmanship proved too powerful for it. And now when the people are far more enlightened, when the measure is hailed with joy by a large section of His Majesty's subjects and orthodox opposition itself has lost all its former bitterness, is the hope extravagant that Government will guide the Bill through the Council with their accustomed sympathy and firmness ? "

**The Hon'ble Maharajadhiraja Bahadur of Burdwan :** " Mr. President, I am sorry I do not find my friend to the left in his chair just at present, for I should have liked to have reminded him of the corporal chastisement that he spoke of when he began his speech ; for it struck me very forcibly when he was making his speech that it would have done him good, as well as those whom he thought fit to slander, if he had gone to those citadels of Hinduism regarding which he spoke with such a sneer ; for as a silent sentinel, or as one of the guarding sentinels of that citadel, I would have had great pleasure to have taken him inside that citadel to remind him of the corporal chastisement that he spoke of."



**The President :** " I must call the Hon'ble Member to order."

**The Hon'ble Maharajadhiraja Bahadur of Burdwan :** " Mr. Basu spoke at great length, quoting certain authorities regarding the different forms of marriages extant among the Hindus. I regret here again that he did so in this Council. As this is a ground on which there may be controversy, and, as I have already been taken to task for using certainly not half as offensive a language as my friend used regarding the Brahmins of India, I shall pass over this portion of my remarks and will now put forward before this Council my arguments against the adoption of this motion.

" I oppose this motion as I am opposed to the principle embodied in the Bill of the Hon'ble Babu Bhupendranath Basu. This principle violates not only the Hindu social customs and the cherished rites and laws of succession, but it also interferes with the social customs and marriage rites of the Muhammadans, Christians, Jews and Parsis. From the very beginning, I have been against the introduction of this Bill amending the Special Marriage Act of 1872, for it is something far greater than an amendment. Whilst the Special Marriage Act of 1872 was confined in its application to a handful of Brahmos, it was enacted for the purpose of giving a marriage law to a class who, having none of their own, stood in urgent need of one. This proposed legislation would cover not only the Brahmos, but all Indians of all creeds and denominations. As one who has advocated the relaxation of many a meaningless social custom among the Hindus, as one who is a strong supporter of the emancipation of Indian women, as one who is dead opposed to early marriages of Indian girls, as one who has tried to give practical proofs of his ideas of reform by practising what he preaches in his own sphere of life, I wish at the very outset to say that, even following and practising these precepts of emancipation and progress, I cannot, with any instincts of true Hinduism left in me, possibly advocate a *Varnashankarism* to be spread in the country for the sake of an infinitesimal minority or a special class, or for the benefit of a handful of love-sick Indian youths seeking legalisation of their indiscreet romantic marriages. It is after a very careful deliberation that I have come to the conclusion that the Bill before us, far from being harmless, directly interferes with the social customs and laws of succession, which a legislative body like this has no right to introduce or accept.

" I understand that the real reason why the Hon'ble Mr. Basu has brought this Bill up is that the declaration in the Special Marriage Act has been felt to be an 'unnecessary' condition. May I ask why it has been felt 'unnecessary'? The proceedings of the Governor General's Council held on the 27th March 1871 clearly show the circumstances under which the Act with its so-called 'unnecessary' declaration was passed, and prove beyond doubt that the declaration was a very *necessary* one, and it is still just as *necessary*, unless the whole mass of Indians, especially the Hindus, have within these forty years changed as rapidly and as abnormally as the swift-winged reformers themselves, of which there are some specimens to my left. The paragraph in the proceedings runs as follows :—

'The cause which led to the introduction of the Bill was the grievance which the members of the Brahmo Samaj said they felt; for they asserted that they did not know whether they were married or not. The Bill was circulated to the Local Governments and had been discussed. It appeared that the Local Governments were almost unanimous on two points, first, that there could be no objection to give relief to the Brahmos, and, secondly, that a very great objection would be felt by all classes of orthodox Hindus if the measure were made a general one. They said that the direct effect of such a measure would be to introduce very considerable alteration in their social rules and the institution of caste generally. He (Sir Henry Maine) felt the weight of this objection. The Bill had been reduced to meet the specific cases of the Brahmo Samaj and provided a simple form by which they would be married according to their own views.'

" If Sir Henry Maine's Bill had to be modified for the above reasons, how much more objectionable is Mr. Basu's proposed amendment, for here the disciple even outruns his preceptor! On the 18th of November 1868, Sir Henry introduced his Bill 'to legalise marriage between certain Natives of India not professing the Christian religion and objecting to be married

in accordance with the rites of the Hindu, Muhammadan, Buddhist, Parsi or Jewish religion.' His Bill clearly excluded from its operations the Christians and applied only in cases where the party concerned had an objection to marry according to Hindu or other forms prevalent in India; but what was the fate of that Bill? It was thrown out as violating the social rules and sinning against the special laws and the alleged 'unnecessary declaration' was introduced into the Bill for a solution of the difficulties. The declaration was then of vital importance, for without this the law could not be passed and the Brahmos could not get any redress. They had then the option either to accept or to refuse the modification, but they chose to abide by it; they felt it necessary, for it was a marriage *according to their own views*; and now they come forward and say that the very condition under which the Bill came to exist is 'unnecessary.' Now what would be the effect of removing this objectionable clause? Will it not make the scope of the Bill even wider than that of Sir Henry's Bill? It will remove the two small barriers which Sir Henry for some reason or other thought fit to maintain in his Bill and bring within its purview all races, creeds and nationalities residing in India. Then the very reasons which led to a modification of Sir Henry's Bill will apply with double force to Mr. Basu's Bill, unless it is proved that the Hindus, Muhammadans and others have changed their mind and are anxious to get the proposed marriage law for themselves. But have they really changed? It will amount to a total disregard of fact to say *yes*. The Muhammadans, Jews, Parsis, Christians and the orthodox section of the Hindu community are opposed to it as strongly now as forty years ago; a vast majority of the Sikhs and enlightened Hindus are equally opposed to it; the opposition of all the Local Governments is as strong now as then; only a handful of Brahmos have expressed their views in favour of the Bill. Is this a sufficient reason to consider such an important clause unnecessary? The removal of the clause would legalise a marriage between persons of different religions; do all the religionists approve of it? As the papers submitted to the Government in connection with the Bill prove the contrary, and as the vast majority of the uneducated orthodox class whose voice never reaches the Government would sooner part with their lives than with their sacred laws and customs, I consider the clause not only *necessary* but of vital consequence.

"Then, again, the Hon'ble Member says 'the provisions of the Act, moreover, cannot be availed of by those members of the Hindu community who desire to introduce intermarriage between different sub-sections of the same caste or between the members of the same caste inhabiting different Provinces of India.' The statement is comparatively modest, but to achieve this very modest purpose a Bill has been proposed which goes far beyond the reasonable limit. The Bill would countenance a union entirely contrary to established usages and customs. If the object of Mr. Basu is only to validate intermarriage between different sub-sections of the same caste or between members of the same caste inhabiting different Provinces, then there was no need seeking the aid of the legislature at all. Such marriages have my fullest support and are already taking place, though in a limited number, and he would have done well to have awaited and watched the gradual evolution of social rules. As a matter of course, society will adapt itself to the requirements of time—a hasty change is always to be deprecated. If a time-honoured custom is to be subverted at all, let it be done by slow degrees; let it take the natural course of progress; let the change come as a reformation and not as a revolution: as someone has properly remarked, seeking the help of Government for such a purpose 'not only betrays impatience but impotence.' Over and above what I have said on this point, I doubt the validity of the very statement. I doubt whether it is a fact that any member of the Hindu community desirous of introducing that intermarriage contemplated above could not do it because of the existence of the particular clause in the Act of 1872. No memorial was ever submitted to the Government to that effect: not a single line ever appeared in any newspaper which could bear testimony to it; so how can we presume this difficulty to have arisen at all? On the contrary we have always seen that those who have desired to introduce such intermarriages



have taken recourse either to the Hindu law or to the Special Marriage Act, welcoming their consequences stubbornly. It is idle to say that the declaration in the Special Marriage Act of 1872 is deterrent to any man of honest conviction, for the declaration is nothing more than a truism. I shall put the whole case in a nutshell and show that the objection is merely imaginary.

"The intermarriages specified above are either valid or invalid according to Hindu law.

"If they are already valid, then there is no need of another legislation.

"If they are not valid, the person who is willing to contract such a marriage violates the provisions of the Hindu law and has no right to call himself a Hindu: so the declaration is harmless.

"Now, a question may arise—whether by contracting such a marriage a person would forfeit his right to be called a Hindu, though he may agree with the Hindu principles in several other respects: my answer is, *yes*; because Hindu marriage is regarded as a sacrament, whatever my friend may say to the contrary, because it is very closely connected with Hindu religion, Hindu law of succession and the caste system—all of which constitute the essence of Hinduism. In support of my arguments I would quote below a few lines from the proceedings of the Governor General's Council held on the 16th January 1872; they are as follow:—

'We thought that the Bill, as drawn by Sir Henry Maine, would involve an interference with Native law which we did not consider justifiable under all the circumstances of the case. It appears to me that the Hindu law and religion on the subject of marriage are one and the same thing; that they must be adopted as a whole or renounced as a whole; that if a man objects to the Hindu law of marriage, he objects to an essential part of the Hindu religion, ceases to be a Hindu and must be dealt with according to the laws which relate to persons in such a position.'

"On account of the supposed grievances stated above, Mr. Basu draws the conclusion that 'the necessity for a simple law of marriage, wholly optional, and which may be supplemented by the religious rights observed by the contracting parties, is greatly felt by those who do not desire to break away from Hinduism and at the same time seek to adapt their life to the growing needs of the times.' Now who are these Hindus that would disregard the Hindu laws of marriage and undermine the caste system of the Hindu society and yet like to pass for a Hindu? Surely not the orthodox community which form the majority of the race, neither a majority of the more liberal-minded men whose opinions we respect: it may be a majority of the Brahmos who constitute a small fraction of the Hindu community. But let us see how a Brahmo missionary and journalist has thought of this claim on the part of the Brahmos; he says:—'To identify the religion of the Brahmo Samaj with Hinduism at this late hour or to characterise it as a Hindu sect, is to ignore the progress it has made in various directions during the quarter of a century—such identification is like mixing water with oil. The anomaly is most apparent in the case of Abdul Guffar, Jelaludin Meah, Mr. Maitland and others who have become Brahmos and married according to Brahmo rites, who are as much Hindus as the Laplanders or the Zulus.'

"But howsoever small may be their number, if their grievances were real, the Government would have grounds to alter the law in such a way as to protect them, but I have proved that the grievances are imaginary and the objection is baseless. But we have no grudge against our Brahmo brethren. No one can have any objection if any protection is offered to the Brahmo community, whether necessary or unnecessary, provided it is not given at the cost of others. The Brahmos may claim to be Hindus only in the sense in which Buddhists are Hindus. Both are off-shoots of the same main stock: but how far different they are from one another at the present day! To those Hindus who would violate the fundamental principles of Hindu society and yet would like to be called a Hindu, I would say, they take an impossible stand-point, as may appear from the above extract and the reasoning which I have already adduced in that connection. I, therefore, fail to see how the declaration in the Act can possibly hurt anybody or hamper the moral progress of others. I may



say that if the Brahmos have a conscientious objection against the declaration, they may make a positive declaration as suggested by R. B. Dewan Jamiat Rai (Paper No. 8) as well as by Sir Gooroo Das Banerjee, Kt. (Paper No. 9). Nobody can have any objection to that.

"I shall now dwell upon the most important feature of the Bill—I mean its effect upon the existing laws of succession, adoption and marriage, and the revolution which it is bound to create against the joint family system, though my friend does not think so. It would introduce divorce into Hindu society and destroy the sacramental character of Hindu marriage, which my friend denies, on which depends the peace and security of a Hindu life, it would upset the rule of the prohibited degrees, render valid an intermarriage between persons of different religions, which is contrary to the principles of most of the religions, do away with the Muhammadan formality of a divorce, alter the law of adoption *in toto*, and create a most irreconcilable conflict in several other respects. These difficulties appear to me to be insurmountable—no solution has been proposed in the Bill, and in fact no solution is possible. The Hon'ble Mr. Justice Benson of the Madras High Court says:—

'The proposal in this Bill appears to me to be so revolutionary and impracticable, and so opposed to the general Hindu sentiments, that it is not worthy of serious discussion' (Paper No. 17).

"A disapproval stronger than this cannot be conceived. It is a pity that my Hon'ble Colleague did not realise this sentiment of the Hindu community, and it is a wonder that being a lawyer himself he did not foresee the conflict which would arise out of this measure in the established laws of succession, marriage and adoption; or, if he did foresee, it is stranger yet that he did not propose a remedy.

"Now a word or two to the few supporters of the Bill. Some have supported this Bill simply on the ground that it is a 'permissive measure.' I do not know if this can at all be a reason for passing an enactment. It is true that the Bill won't compel anybody to accept its provisions, but that is not the criterion to test the desirability of a positive enactment; unless and until it is proved that the society stands in need of a law, and that the influence of such law will be genial and salutary, I do not know why a new law should be passed at all. Is it for the relief of persons with superfine conscientiousness; if so, at what risk? At the risk of creating a confusion in many societies and breeding discontent and turmoil. It is a direct challenge to the existing usage and custom, and it opens a back-door to the heterodox principles to come and wage war in the province of orthodox ideas. A 'Permissive Act' is not always harmless; even tolerance may amount to wickedness. The merit or demerit of a law or principle is to be judged from the effect which may come out of its working, and not from the possibility that it may remain defunct till a long time to come.

"Someone has said 'Intermixture of races conduces to mental and physical improvements' (Paper 20, page 19). I do not know how far this is true scientifically, but there is not a shadow of doubt in this, that but for the rigid rules of the Hindu community against such intermarriages, the Hindus would by now have ceased to exist as a distinct race. The high self-sacrificing spirit depicted in the splendid Epics, the undaunted courage and unparalleled patriotism of the Rajputs, the heroism of the Maharastriyas, were all a product of this nation, in spite of its restrictions against such intermarriages. I do not know if any other nation on the surface of the globe have shown better moral or physical progress; but this much is certain, that the existing laws and customs of our society have so long worked satisfactorily. I do not say that there is no room for improvement in them, for I know trimming and pruning is required; but it is one thing to improve and quite another thing to substitute contradictory innovations fraught with a danger almost unthinkable.

"Another critic goes on to say that the proposed measure would serve to abolish 'the pernicious caste system.' I do not know if it can be called a pernicious system at all. It exists in almost all the civilised countries in

some form or other—in some places wealth and honour is the standard of measurement, in India it means the special vocations of special classes: I refrain from saying which is the better. Granting this to be a pernicious system, can the new legislation help to extinguish it? When the Special Marriage Act of 1872 was passed, some people had such hopes, but has it not proved the contrary? Have not the Brahmos been alienated one and all and classed as a different section altogether? History has a cruel way of repeating itself, and I am inclined to believe that the passing of this Act would rather extend the 'pernicious' system and make it more complicated than eradicate it. Like a patent medicine advertised to be capable of curing all diseases from headache to consumption, this Bill comes up to the Council with a promise of innumerable benefits, seeking acceptance at a very high cost.

"In conclusion, Sir, I beg to submit that the Government should not allow this Bill to go into Select Committee, but should throw it out at this stage, as it involves a change of a purely religious or social character. It is a matter for the consideration of the *Pandits* and *Maulvis* and social reformers, and not for the Government to legislate upon. In my opinion, the introduction of such a measure is directly opposed to the policy of non-interference which the Government has thought wise to uphold in all such matters ever since the gracious Proclamation of Her late Imperial Majesty Queen Victoria in 1858. With all the emphasis that I can command, I request the Government and this Council to throw out this Bill, and to the Government particularly I appeal not to interfere in a matter which falls under the category of one of those things which by the Proclamation of 1858 and subsequent declarations the British Government, through the mouths of Sovereigns and Ministers, have assured the Indians of their policy of non-interference. If I find, which I hope I won't, that the Government intends to allow this motion, then I shall certainly begin to believe that nothing is sacrosanct in these days."

**The Hon'ble Sir Gangadhar Rao Chitnavis:** "Unlike the Hon'ble Maharaja of Burdwan, I realise the hardship which the existing law, substantive and adjective, entails upon large numbers of people who, with ideas broadened by education and travel, but firm in the faith of their forefathers, are anxious to ensure homogeneity and vigour to the Indian races by free intermarriage, without moral compunction and consequential legal disadvantages. Personally, I like intermarriage, especially among sub-castes and the local variations of the same caste. At the same time I cannot but feel the Bill is somewhat premature. Public opinion in India is not sufficiently enlightened to allow of such a measure being passed without causing some amount of disquietude among the orthodox communities. I do not say there is any just cause for alarm, but the facts must be frankly recognised that the actions of Government in the matter of social reform are capable of misconstruction, and that there is still in the country a mass of ignorance and prejudice which can be successfully worked upon by the scheming agitator for his unworthy ends. Ignorant conservatism is deaf to reason, and so long as its volume is not considerably reduced, reforming legislation is not free from risk. The administrator has naturally to be cautious in these matters, and any nervousness on the part of Government will be justified by the social and political conditions of the country. It is not prudent to provide another ferment. The upshot is that, notwithstanding the fact that the Bill is desirable in theory and necessary in so far as it removes a real grievance of enlightened Indians, the appalling illiteracy of the masses, their prejudices, their keenness on matters of social privilege, their crude ideas of the duties of Government, and the present agitated state of the public mind make it unacceptable for the moment. A time will undoubtedly come when such legislation will be justified by the intellectual and social progress of the country, and will not provoke much hostile criticism. I am glad to note that time is not remote. Elevating influences are operating to produce the desired result, and when it does take place, Government would



be well-advised to remove by special enactment the present restrictions to marriage. But until that time comes we should stay our hand.

"My Lord, while I do not counsel the enactment of a general enabling measure, I beg to invite the attention of Government to the distressing condition, disclosed in the opinions submitted, to which large numbers of people have been reduced in different parts of the country in consequence of judicial decisions, refusing to recognise intermarriage even among sub-castes unless sanctioned by ancient usage. The cases of Bhatias intermarrying with 'Hardwar maidens' and of Burmans intermarrying with Hindus deserve sympathetic treatment and demand prompt attention. All these classes have a genuine grievance, and I would suggest that in all such cases of intermarriage an Act or Acts, as the exigencies of the situation might require, should be passed, validating existing and sanctioning future marriages. The opinions on the Bill submitted from Guzrat show that, by reason of the paucity in numbers of some of the castes, Hindus have to become Muhammadans, because intermarriage among the sub-castes and with the other castes is not recognised by the Courts. The Bill under discussion certainly meets such local requirements, and steps should be taken to introduce a Bill on similar lines for Guzrat, restricted in its operation to the castes mentioned in the Commissioner's letter and other castes similarly circumstanced. Preliminary inquiries will, I apprehend, be necessary which, I hope, Government will be pleased to undertake at an early date.

"This sort of special legislation, while removing present difficulties on the lines of least resistance, will gradually pave the way for general legislation. People will get accustomed to it, and the results of its working will impress them with its harmless character."

**The Hon'ble Sir Reginald Craddock:** "The general attitude of the Government in the matter of this Bill can be very clearly and concisely stated. In so far as the Bill seeks to leave it open to individuals to replace or supplement religious ceremonies by civil contract and in so far as it emphasizes that marriage is a civil contract and not a status, the proposed measure is in consonance with advanced Western ideas, and it is impossible for the Government to withhold their sympathy entirely from earnest reformers who desire to place this greater liberty within the reach of their fellow-countrymen. But we are asked now to legislate not for Indians as such, but for persons who fall within the category of those several faiths specified in the Act of 1872. And we are asked to pass a measure which will have the effect of declaring that religion is unessential to their marriage laws, and that not only as regards mere forms and ceremonies, but as regards the people who are to be permitted to marry one another. It has been an article of faith with the British Government to hold aloof from any interference with religion or from social customs which are closely inter-mixed with religion, and Government in this matter occupy a position of trust to the many millions who profess these various creeds. Such a step as that contemplated by this Bill can be taken under two, and only two, sets of circumstances. The first of these would be if the existing marriage laws, and the restrictions that they place upon the people and upon those who profess a religion, constituted an outrage on the fundamental laws of humanity; and the second set of circumstances would be if an overwhelming majority of the persons professing these faiths were to come forward and ask for the reform. But neither of these two conditions applies to this Bill. Whatever inconvenience might attach to a few on account of the restrictions imposed, and even though these restrictions may not appeal much to the Western mind, yet it would be most unwarrantable and most unjustifiable to describe these restrictions as being at all in conflict with the fundamental laws of humanity. After all there is not very much hardship and there are still a good many people who will be able to marry one another even if this Bill does not become law. As to the second condition, namely, as to the overwhelming majority, the overwhelming majority is at present certainly on the other side. On this point there is absolute unanimity in the

reports of the Local Governments. And it is plainly manifest both from those reports and from the speeches that we have just listened to that the opposition to this measure is not confined to a very rigid and ultra-conservative orthodoxy or to ignorance and superstition, but is shared by the most enlightened and advanced members who belong to these faiths. In these circumstances, Sir, it is the plain duty of Government to oppose any further action with reference to this Bill until such time as the overwhelming majority, of which I have spoken, in favour of a reform of this kind, may be in clear evidence before Government."

**The Hon'ble Mr. Subba Rao :** " Sir, I should like to say a few words on the motion before the Council. When the Hon'ble Mr. Basu introduced this Bill in March last, I reserved my opinion on its merits and I ventured to point out that there were difficulties in connection with the measure, and that, though the amendment proposed by the Hon'ble Member was simple enough on the face of it, it was one of a far-reaching character, vitally affecting the Indian society as constituted at present. I anticipated that it would rouse opposition and provoke agitation. Since then it has been discussed with much heat all over the country, especially by those who have come under the influence of Western education and Western civilization. Without going into the criticisms that have been offered for and against this measure, I may say that, as far as I have been able to gather the feeling of the public, the Mulammadans as a body are opposed to the Bill. So also are the Parsis and the Jains. The Brahmos are in favour of the Bill, and it is curious that the Arya Samaj has refrained from pronouncing any opinion; apparently its members are divided on the subject. The Christian Missionary bodies are generally in favour of the Bill and some of them desire that certain safeguards should be embodied in the measure, and this attitude of sympathy on their part is attributed by the Madras Government mainly to the principle of freedom underlying the Bill with reference especially to its disruptive effects upon caste. As regards the Hindus, though the Bill has provoked a great deal of opposition from them and the volume of opposition is in my opinion rather formidable, I may congratulate the Hon'ble Member on the sympathy and support that has been evoked for the Bill. Ten years ago, it would have been impossible to obtain even that limited measure of support. Many eminent men are now ranged on opposite sides and the supporters of the Bill are found in all classes of the Hindu society, whether they are Brahmins or non-Brahmins, whether they are styled as reformers or defenders of Hindu orthodoxy, whether they are English educated or not. The outstanding fact is that there is comparatively a small but strong body of intelligent opinion that keenly feels that the Hindu marriage law has serious defects and requires reform in important directions. It has become evident that some members of the Hindu community, though few, find that the restrictions imposed by the customary marriage law unduly interferes with their freedom of choice and that the forms prescribed by it are revolting to their conscience. It is also evident that, though such instances are rare, men of culture and enlightenment now prefer to marry outside the pale of the Hindu religion rather than submit to the caste discipline and its rules. I am afraid that the inconvenience and rigidity of the present system will be felt more and more as time passes on. It is necessary, therefore, that the question should be seriously considered, and it is time that a solution was arrived at whereby the rights of individuals should be secured without their being forced to declare that they are not Hindus by religion. It must be remembered that in consequence of the rigidity of the law as administered by our Courts, no custom can grow up at the present day in violation of the law. I am, therefore, in sympathy with any measure which tries to remedy the defects in the present marriage law of the Hindus and give freedom to contract marriage within certain well-defined limits and under proper safeguards, without disturbing the rights of others and the religious instincts of the people and also without giving reasonable grounds for deep discontent among different classes of His Majesty's subjects. I am afraid the present Bill bristles with difficulties. After what has fallen from the Hon'ble the Home Member, it is unnecessary to point out in what direc-



tions the Bill should be recast. I may, however, state that in the case of mixed marriages, the law of succession to the property of the parties to the marriage, the rights of the offspring to inherit to the ascendants or collaterals of the parties to the marriage, the right to make no adoptions, the applicability of the law of divorce, the right of a guardian to dispose of his ward in marriage to persons of other faiths, and other important matters, have to be carefully considered and determined. It is no answer to objections on these points that the present Act of 1872 makes no provision in regard to succession, which is no doubt an important defect; but when the scope of the Act is proposed to be extended by the present Bill to the followers of all the recognized faiths in this country, I consider it essential to provide in respect of all the matters mentioned above, so that they may know exactly how they will be affected by the Bill. I think it very desirable that a competent Committee should consider these important questions and arrive at some harmonious adjustment of the marriage system or find out a way out of the present difficulties.

"It is proposed in some quarters that the Bill should be confined to Hindus only, especially as persons of other persuasions—Muhammadans, Parsis, etc.—do not want it, and are satisfied with their personal law on the subject. I am glad that the Hon'ble Mover does not take that view. Such a proposal is inappropriate and out of place in connection with an Act which is specially designed for those who do not profess any of the recognized religions in this country.

"As the Hon'ble Mover desires that the Bill be referred to the Select Committee, where it is expected to be thoroughly discussed, I shall not raise at this stage any opposition to the motion before the Council."

**The Hon'ble Mr. Muhammad Shafi:** "Sir, I desire to express my sincere appreciation of the breadth of view, the spirit of toleration and the patriotic motives which have actuated the Hon'ble Mr. Bhupendranath Basu in placing this idealistic measure on the legislative anvil. But while I fully recognize the enlightened spirit in which the main principle underlying the Hon'ble Member's Bill has been conceived, I cannot lose sight of the fact that the problem which my Hon'ble friend seeks to solve by means of the proposed legislation is of a socio-religious character in reference to which this Council would not be justified in undertaking legislation unless there was a clear demand therefor by at least a majority of the people affected by it, or the evils resulting from the existing conditions, besides involving consequences highly detrimental to the welfare of the people, were irremediable by the forces of enlightened progress in actual operation all around us. I rejoice that these principles have been accepted by Government as alone justifying legislative interference. Judged by these two vital tests, the proposed legislation is, in my humble judgment, open to serious objection, and, in consequence, further consideration of the Bill by adopting the customary procedure would serve no useful purpose.

"Sir, the criticism to which this Bill has, since its introduction and publication, been subjected in the Press as well as at the numerous public meetings in which its provisions have been discussed and the opinions which have been received from all parts of the country, make it abundantly clear that not only is there no general demand for the reform embodied in the proposed legislation, but that the majority of the Indian peoples are strongly opposed to the enactment of this measure. So far as the province which I have the honour to represent is concerned, I am in a position to state that the consensus of Muslim opinion is, in common with the rest of Muslim India, absolutely averse to this measure finding a place in the Indian Statute-book. And excepting our Brahma friends who naturally are unanimous in their support of the Bill, the vast majority of my Hindu brethren, among whom I include Sikhs, in the Punjab, are entirely hostile to the proposed enactment. The majority of Hindu opinion even in the other Indian provinces is clearly opposed to the reform

advocated by my Hon'ble and learned friend, and the enlightened Parsi community have, with almost one voice, protested against the application of the proposed law to their matrimonial usages. The signed representation sent up by a number of Hindu ladies of Bombay bears eloquent testimony to the unpopularity of the proposed enactment. These being the incontrovertible facts, it is absolutely clear that this unfortunate Bill has failed to pass the test of public opinion.

"Sir, the Muslim law of marriage is an essential part of the Islamic Code, its basic principles being founded not upon rules laid down by later Muslim jurists, but upon clear and express texts of the Holy Koran itself. Under these circumstances, it is not surprising that there should be such a complete unanimity of feeling among the Mussalman community with regard to a legislation which, in many respects, is directly opposed to the ordinances contained in our sacred book. The same observation applies equally to other non-Hindu communities who have their own matrimonial laws recognized as binding upon their individual members. To enable members of such communities to contract themselves out of their personal law and yet claim to enjoy the privilege of their memberships would be so utterly subversive of social order and communal well-being, that our Legislature ought to hesitate before taking such an ultra-radical step as is advocated in this Bill.

"Sir, I am not in a position to enter into a discussion of the merits of the proposed reform so far as it affects my Hindu brethren. There are among the Hon'ble members of this Council so many distinguished and representative Hindu leaders, that it would be inappropriate on my part to dwell on this aspect of the question at any length. This much, however, I may be pardoned for saying, that legislative interference for the realization of the two main objects which the Hon'ble Mr. Basu has in view appears to me to be utterly undesirable even in the best interests of the Hindu community. As I understand it, the main end which my Hon'ble and learned friend has in view is two-fold, one concerning the status of our Brahma friends, and the other relating to intermarriage between different castes as well as between members of the same caste residing in different provinces of India. Speaking as an outsider, it seems to me that legislative interference, in the existing circumstances, is hardly the proper remedy for the achievement of the contemplated object. The question of the status of our Brahma brethren as Hindus has been finally set at rest by the highest judicial tribunal of the Empire. In their judgment in the well-known case of *Rani Bhagwan Kaur vs. Mr. J. C. Bose and others*, regarding the validity of the will of that enlightened and patriotic nobleman, the late Sardar Diyal Singh Majithia, their Lordships of the Privy Council have made a judicial pronouncement in respect of this question which is absolutely conclusive and renders legislation for practically the same purpose entirely unnecessary. And if there is anything in the form of the Hindu marriage ceremony which is distasteful to the members of the Brahma Samaj, the real remedy therefor does not lie in the direction of legislative action. Nor is legislative interference the real remedy for facilitating intermarriage between the various sections and sub-sections of Hindu society. The Arya Samaj has already solved this problem, justifying its action in this respect by reference to the original fountain-head of the Hindu religion, *i.e.*, the Vedas. In regard to inter-provincial marriages, the Punjab has already taken the lead, and the signs of the times clearly point to the day, not far distant, when the insular provincial prejudices will have been swept away and spontaneous social evolution will bring about results which my Hon'ble and learned friend seeks to achieve by legislative mandate. The mist of old-fashioned social ideals unsuited to the rapidly changing conditions of modern society are already undergoing a process of automatic evaporation due to the widening of the mental horizon and to the new forces which modern culture and civilization have brought into play. This healthy growth, on spontaneous basis, of social ideals consistent with modern conditions, imparting new life and fresh vigour to the development of the social organization, and resulting in the progressive evolution of a compact and homogeneous whole, ought to be welcomed in preference to the hot-house growth manured by legislative action. Impatient idealism may



be peculiarly attractive to ardent minds in transitional periods, but it is the steadily upward progressive movement which in the long run is of lasting benefit to an advancing nation.

"Sir, the delicate nature of the socio-religious problem of which solution is sought by legislative enactment, the conflict of laws and usages certain to arise from the proposed legislation, the legal complications relating to the status of children, rights of inheritance and other important matters, some of which I have mentioned in the written opinion on this Bill submitted by me in response to a communication from the provincial authorities, make it impossible for me to agree to the motion now before us. While expressing my admiration for the remarkable courage, high-minded patriotism and the enlightened motives of the Hon'ble Mr. Basu, I regret I am unable to vote for the reference of this Bill to a Select Committee."

**The Hon'ble Mr. Syed Ali Imam :** "Sir, I have listened to the speech of the Hon'ble Babu Bhupendranath Basu with a very great deal of interest. The interest in my case had several aspects. One was that of an Indian who is deeply concerned in some of the problems that the Hon'ble Mr. Basu has dealt with in that speech. Another was as a Muhammadan, belonging to a community that has in the problem which is before the Council a deep interest. But by far the most important concern that I had when I was listening to the speech of the Hon'ble Mr. Basu was the concern that relates to the occupation of the office that I hold in the Government of India. I must confess that the speech which the Hon'ble Member has delivered to-day is remarkable for the earnestness—and I was going to say sobriety—but I have on wiser consideration withheld that word—I will say for earnestness, and at the same time effectiveness. It is one of those speeches that must be regarded as a powerful speech that may be made in any assembly. But, for all that he had to urge in support of the Bill, the conviction that came to my mind was this, that there was a very able counsel who was advancing every possible point that he could in support of his case, and yet behind it all he knew that he had a very weak one, and that it was not likely to be decided in his favour. The Hon'ble Babu Bhupendranath Basu must really be congratulated, as I have said, on that powerful speech; but I would ask the Hon'ble Member if he was not, in bringing forward this Resolution, attempting to force the pace. He instanced in support of his argument that there had been legislation where social reforms had been achieved by the very process that he wanted to apply to his case. He instanced before us the case of the reform in respect of the *sati* system, age of consent, and various other things. May I remind him that those cases stand on a different footing to the case which he puts forward now? Those were cases where there was no question at all of any intercommunal complications arising; those were cases confined to particular communities and particular sects; and those were cases that had behind them the very great forces of the cause of humanity. The case that the Hon'ble Mr. Basu has put before the Council is a case that has great intercommunal complications involved in it; it is a case behind which hardly anything can be urged on the ground of humanity; and, therefore, it seems to me that that is a distinction which should be kept in mind in order to understand him. The Hon'ble Mr. Basu's illustration of the other cases can be of no avail to him. Descending from these instances in his argument, the Hon'ble Mr. Basu began to put before the Council considerations as to whether or not already in India between communities that contract inter marriages the principle of aloofness has been broken, or is it not a fact that Hindus have married Muhammadans, Muhammadans have married Hindus and Christians, and so forth; and in drawing the attention of the Council to those considerations, he went a long way to show that after all those social barriers and dividing walls have been broken down, but did not show that there is any strong reason for the support that he seeks in favour of his Bill. I submit, Sir, that there is a very great deal in this particular Bill which demands very careful consideration and which ultimately I urge requires our rejection of that Bill. What has happened in India in various instances from the times of the Moguls—the inter-marriage between two castes—all that will not be of

any assistance as long as there is any conviction in our minds that India, in spite of those few instances here and there, in the main is divided by water-tight compartments of race, nationality and community. Mr. Basu has not been able to show to the Council that these barriers have ever been removed. My Hon'ble friend has not been able to show to the Council that these barriers have ever been effectively broken down. The Hon'ble Member in support of his contention has made not only a reference to the very historic and romantic marriage of Akbar with Jodhbai, but also to the Muhammadan Emperors who married Rajput princesses. I am speaking purely in the capacity of an Indian and not as a Muhammadan. I take very great pride in recalling these unions to the Council to show the possibility of the unification of this country, but, alas, if history has got to be looked into, if research can help us, and if I were to quote that very case of the Muhammadan Emperors and the authority of the very eminent Jurist that the Hon'ble Member quoted in this Council, namely, Sir Rowland Wilson, I fear that my Hon'ble friend Mr. Basu will find himself reduced to this very painful consideration to which I am, and it is this, that in these instances it was found necessary before the imperiousness of the Muhammadan law for these ladies to make a formal profession of Islam before the marriage took place. If any authority is needed on that subject I have got the reference. If Hon'ble Members wish to have the authority I have it here before me; I could quote it and place it before them. That is a research to which Sir Rowland Wilson gives his own acceptance of the fact, that in these instances where these marriages took place, the marriages had to conform to the Muhammadan law by the profession of faith to which I have made reference before the Council.

"Such is the state of Indian society even to-day which shows that deep-rooted convictions die very hard. It is not easy to shut our eyes to the fact that India is divided into communities—communities that after all have in common with other communities no more than some civic rights, touching only the very fringe of social life. Each community in India is absolutely separated from other communities in matters of true social and domestic concerns. As a social system Hinduism has a great deal to command our admiration. Hinduism is hidebound. If the country, after 1,000 years under alien rule, did not submit to an invasion of Hinduism by structural innovations, I think it is incumbent on this Council to be careful and cautious when it proposes to adopt a measure involving radical change of conditions.

"Now, looking at the Bill itself, I am confronted with one or two difficulties which to my mind will appeal to all lawyers. I find that the Bill, as has been pointed out by the Hon'ble Maharajadhiraja of Burdwan, is really a very much bolder measure than was ever contemplated even by my eminent predecessor, Sir Henry Maine. When Sir Henry Maine put forward his Bill he took very great care to exclude the Christians from the operation of that Bill. In form his Bill was different from the form which the Hon'ble Member has given to his. But in substance, except in so far as Christians go, the Bill as originally put forward by Sir Henry Maine was exactly the same as has been put forward by my friend. Sir Henry Maine knew his difficulties and he had a very good reason for keeping the Christians out of it. My friend thinks that after a lapse of about 50 years it would be possible to group them all together, putting aside the exception that Sir Henry Maine adopted in respect of the Christians. But if I may be allowed to point out purely from the lawyer's point of view, there is a great defect in the Hon'ble Member's Bill, and that defect is that if his Bill is passed into law, we should have on the Statute-book of India two enactments, I submit, in conflict. If you look to section 4 of the Christian Marriage Act, you will find that that section tells us this: 'every marriage between persons, one or both of whom is or are a Christian or Christians, shall be solemnised in accordance with the provisions of the next following section, and any such marriage solemnised otherwise than in accordance with such provisions shall be void. Our difficulty is this, that if you pass this Bill you will have on the one hand the Christian Marriage Act telling you that between a Christian and another either a Christian or non-Christian marriage has to be solemnised in the



manner provided for in that Act; and if you look to that Act you will find that the procedure there is wholly different from the procedure that is to be followed under this Bill of my learned friend. The result is that the Bill of the Hon'ble Mr. Basu, on the one side, and the Christian Marriage Act, on the other, will remain in disagreement, and, therefore, so far as the point of view of my own Department is concerned, I find that it is highly repugnant that we should permit such a conflict as this to exist between two enactments. But, Sir, this is not the only defect that is to be observed in this connection. What I find is this, that the Bill rides rough-shod on all laws and customs that govern the various communities in India, and to take only as an example I will put forward the two main communities, the most important communities in India, namely, the Muhammadans and the Hindus. It is not by instances of marriage between a Hindu and a Muhammadan that this question can be decided, but it is a matter of law. It is a matter of finding out as to what the law on this point of these communities is. Whatever may have been the law in its origin, certain principles have been accepted and these principles have been embodied in our case law. Therefore, it is not possible, I submit, for a moment to ignore these various principles of law as they have been formulated and expounded in the decision of our Law Courts. My Hon'ble friend opposite is much carried away by an enthusiasm, for which I have great respect and I make no concealment that I am in great sympathy with him, but my difficulty is this: how is it possible that these principles can be permitted to be brushed aside in favour of what is after all a mere enthusiasm? I may with confidence say that the enthusiasm which governs the attitude of my Hon'ble friend certainly is not one which affects the rest of India.

"Now let us first of all take the question of the Muhammadan law on this point. I do not propose to detain the Council at any great length, but I would like to make a reference to what the law on this point is. The Hon'ble Mr. Shafi has alluded to the fact that the Muhammadan law of marriage is deduced not from the sayings or doings of any particular jurist but as a matter of fact it emanates from Koranic dicta. Well, that is absolutely true. However much strong the case may be of a Hindu marrying a Muhammadan in Hyderabad or in any other part of the world, this and others will not for a moment discount from the clear and emphatic expression that has been given by Muhammadan jurists in regard to the direction which this law has received from the revealed verses of the Koran. The Muhammadan view is that the principal source of the Muhammadan law is their sacred book—the Koran. There can be no valid marriage according to Muhammadan law with a woman who is not a Muhammadan or a Kitabia—a Jewess or a Christian believing in Scriptures, the sacredness of which is acknowledged by Muhammadans. A Muhammadan woman as such cannot contract a valid marriage with one who does not profess that religion. When I put forward this principle before the Council I claim that this is not a mere principle that has been dealt with by jurists, but this is a living principle which has been accepted by our Law Courts, and the Hon'ble Member, than whom there is no better authority on that point, knows that this has been the guiding principle in the decision of our cases in the various High Courts of India and of the Privy Council. Therefore, when I venture to put forward this principle I say that it is a very grave question indeed, if such a principle as this can be brushed aside by such considerations as the Hon'ble Member has placed before the Council.

"I think it my duty to quote the very verse of the Koran, so that there may be no doubts left as to what the principle really is. I find in sura 2, verse 220, of the Koran it is laid down:—

'Marry not women who are idolators until they believe; verily a maid-servant who believeth is better than an idolator though she pleases you more. And give not women who believe in marriage to idolators until they believe; for verily a servant who is a true believer is better than an idolator though he pleases you more.'

"I think the language of the Koran is so emphatic and clear and the meaning that has been put upon that passage by jurists and the Law Courts is

so obvious that there is hardly a lawyer in the country that will dispute the significance of it. Therefore it seems to me that to bring in a legislative enactment which does not only touch the social aspect of the conditions of life in India but goes a very long way indeed to create far-reaching changes in a law that is based upon religious obligations and religious ordinances, is indeed a very grave matter. Therefore, I find that I am unable, indeed, from the point of view of the Muhammadan law—much as I may sympathise with the Hon'ble Member—to give my support to the Bill.

“Furthermore, there is more to urge in opposition to the Bill in the case of the Hindus than in the case of Muhammadans. I find that the law of marriage among the Hindus is far more based on religious obligations, rites and ceremonies than it is amongst the Muhammadans. Amongst the Hindus it is a sacrament—not only a sacrament of an ordinary character, but it is of such a deep character that even death does not obliterate it, and there are various authorities to show that even after death the sanctity of the nuptial bond, and the sacredness of the knot, remains. Now as to the manner in which the Hindu law will be affected, I find that the law of marriage of the Hindus will be in various particulars absolutely up-rooted. I do not want at all to use any expression that may be hurtful. Inter-marriage amongst Hindus between persons not belonging to the same primary caste is void. Instances have been quoted that intermarriage amongst the lower castes and intermarriage between sub-castes have been held to be valid; but here we are not dealing with sub-castes; but we are dealing with an omnibus Bill that affects the whole of India. It spares nobody—Christians, Jews, Parsis, Muhammadans, Hindus, Buddhists, Jains, etc. Well, so far as the Hindus are concerned, the four primary castes are of course of the greatest importance, and if this Bill makes marriage possible amongst them all I can say is that the Bill at one stroke of the pen will quite upset the decisions of the various High Courts and of the Privy Council.

“Further, I find that another principle has been invaded. No Hindu marriage is valid without a substantial performance of the requisite religious ceremonies. It may, for instance, be urged that an advanced Indian may think—what good is there in these ceremonies; what does it matter if a certain fire is not lit; what does it matter if oblation of ghee is not poured on the fire; what good is there in making an appeal to an imaginary being like Agni? That is all very well for the advanced Indian to say. My question to him is—what is the idea of those who are not advanced as you are; what is the idea of those who represent the bulk of the country; what is the idea in your own family for instance of those who are your elders and what is the idea of those people who have a fervent faith in their religion. With regard to these ceremonies, one more word is to be said. These ceremonies are not governed by any purely social observance; they have their birth in the sanction, direction and command of the Shastras. Therefore it seems to me that so far as the law of marriage of the Hindus is concerned, the Bill is wholly opposed to Hindu sentiments and Hindu religion.

“Furthermore, we find that the question of divorce is involved in the consideration of this Bill. This is a matter of deep concern to Hindus. Divorce is altogether foreign to Hindu law. Various decisions support my contention that divorce is not permissible amongst the Hindus, even in instances where there is a case of outcasting or faithlessness. No such grounds under the Hindu law are allowed to be put forward in favour of divorce because as a matter of fact the Hindu law had never contemplated a thing like divorce. Therefore, it seems to me that in regard to this Bill there is such an amount of opposition from all the various points of view and especially from the point of view of the lawyer, that I find it almost incredible that my Hon'ble friend, who is himself a lawyer of very great repute, ever really believed that he would be able to carry this Bill through this Council. What I really think his object as a reformer is that he has put forward the Bill as the cutting of the first sod. He knows very well that he has a very long journey before him and that it will be a long time before India has advanced so far as to obliterate all these castes and communal distinctions and the unification



of the country has been effected on nationalistic lines. I do not know whether he is a nationalist or not. I personally think that if my friend is, he does honour to that community and to the members of that creed. But he has certainly rendered a very great service to those Indians who have the aspiration that this vast country will be united one day in its religious, social and moral sentiments, because behind these sentiments I expect there will be a very great deal of good that will come to this land, and as such I admire the courage with which he has come forward and put this Bill before the Council. If I know anything of the ability of my Hon'ble friend and his extraordinary courage in these matters, I may tell the Council that even if the Bill is rejected to-day, that won't be the last of it. I am perfectly certain that my Hon'ble friend will come to the charge again when he has been able to get greater co-operation and popularity than he has so far received to-day. It seems to me that my friend need not despair; every day that passes brings him nearer, however slowly it may be, to the goal. In these circumstances, I find that it is absolutely impossible that I can give my support, much as I may sympathise with the object that my friend has in view, to the motion which the Hon'ble Member has put forward before the Council."

**The Hon'ble Mr. Jinnah :** "Sir, a matter of this importance which is contained in this Bill is so difficult that I can quite understand there being two opposite views in the country. Sir, the position of the Government, as far as I understand, is this: that if there is any measure which is necessary on the grounds of humanity or on the ground that there is a clear majority in favour of a particular measure in the country, the Government will pass that measure. That standard, as far as I can see, is a standard which would appeal to any one as just and reasonable. Now, the Hon'ble the Home Member said that there was not a clear majority in favour of this Bill. I do not think that that can be disputed. There is certainly not a clear majority in favour of this measure. Then the Hon'ble the Home Member said that on the second principle that he laid down, namely, on the ground of humanity, no case was made out. Now, Sir, I submit to the Council, that I have heard all the speeches of the various Hon'ble Members, including the Law Member and the Hon'ble Home Member who have opposed this measure. Nobody has denied this proposition that equity, in the strict sense of the word, is in favour of the measure. Can you deny that there is a certain class of educated and enlightened people who rightly think that the gravest injustice is done to them so long as liberty of conscience is withheld from them. Can that be denied? I say, Sir, that it cannot be denied. Then, Sir, if the equities are in favour of this measure, the next question is—should the Government not accept this measure. Of course, the position of a representative in this Council, be he a Hindu or a Muhammadan, is awkward because the orthodox opinion is against it; but that, I submit, is no reason for a representative who owes a duty to his people to refrain from expressing his own convictions fearlessly. It does not necessarily follow that because the majority are against it, they are right. If a representative in this Council is convinced in his mind that this is a measure which is good for his country and his people, he ought to support it. Well, now, Sir, let us consider the merits of this Bill. I will deal with the Hon'ble the Law Member first, if I may, as to his points. The Hon'ble the Law Member said that so far as Musalmen are concerned, you have a clear authority in the Koran that a Muhammadan cannot marry any one except 'Khetabia.' Well, I will assume that proposition to be correct. May I ask the Hon'ble Member—is this the first time in the history of the legislation of this country that this Council has been called upon to override the Musalman law or modify it to suit the times? This Council has overridden and modified the Musalman law in many respects. For instance, the Musalman law of contract is not recognised. The Musalman Criminal Law, which was administered after the advent of British rule, has been abrogated absolutely; the Law of Evidence, known to the Moslem law, does not exist any more in this country, and what is more, there is a very recent enactment

known as Lex Loci Act, XXI of 1850, or otherwise known as Caste Disabilities Removal Act, to which I may draw the attention of Council, and that is this, that although there is as clear an injunction in the Koran about the forfeiture of inheritance by a Muhammadan in case of apostacy, as the Hon'ble Law Member pointed out in the case of marriage, still it is abrogated by this Act. A Muhammadan now can change his religion, and yet he does not forfeit his right of inheritance, and the law laid down in the Muhammadan texts is to that effect absolutely abrogated, and the same argument applies to the Hindus so far as this Statute is concerned. Well then, Sir, are these not precedents (I do not wish to dispute the Muhammadan law that the Hon'ble Member has laid down; I assume that it is correct), are these not precedents which stare us in the face? Of course, provided there is a good and a strong case made out, I say these are the precedents, which we ought to follow to keep abreast of times and modern requirements for which there is ample authority in the Muhammadan law and jurisprudence itself. Then the Hon'ble Law Member said that it will conflict with the Christian Marriage Act, and he pointed out that that created a sort of an *impasse* and the Hon'ble Mover had forgotten to take note of the Christian Marriage Act. I have not read that Act very recently, Sir, but I should have thought that that is not an insurmountable difficulty. That would be a question which could properly be dealt with by the Select Committee. From what I remember—for I have not read this Act recently and I can only speak off-hand—when Act III of 1872 was brought before the Council, the Christians were expressly excluded, and it was exclusively intended for one particular class, *viz.*, the Brahmos. It seems that soon after that the Christian community had to be dealt with, because there was similar difficulty with regard to the Christians; and when they came to deal with the Christians by Act XV of the same year, namely, the Christian Marriage Act, XV of 1872, they had to deal with this community, and in dealing with this community they had to lay down the law for that particular community only. But surely, Sir,—assume, now, that there may be a conflict and that there is this difficulty—it is a matter entirely of detail, and not of principle, and it is a question which can be dealt with by the Select Committee quite easily so as to avoid any conflict of any kind whatever between the two Statutes; *viz.*, the Christian Marriage Act, XV of 1872, and the one now before the Council. Therefore, I submit, that this difficulty is not a great difficulty, but a very small and minor one.

“No doubt, Sir, as far as I see, the Hindu law or the Muhammadan law, whichever you take (I speak with great diffidence so far as the Hindu law is concerned, and with diffidence so far as the Muhammadan law is concerned because I am not a scholar in San-krit or Arabic and I can only go by translations), does create a difficulty in the way of a Hindu marrying a non-Hindu or a Muhammadan marrying anyone who is not ‘Khetabia’; but is that difficulty not to be remedied by means of legislation? Is there a case made out or not for the legislature to interfere in this matter? As it has been already pointed out, this is an entirely optional character of legislation and it is not at all compulsory; it does not say that every Muhammadan shall marry a non-Muhammadan or that every Hindu shall marry a non-Hindu. Therefore, if there is a fairly large class of enlightened, educated, advanced Indians, be they Hindus, Muhammadans or Parsis, and if they wish to adopt a system of marriage which is more in accord with modern civilisation and ideas of modern times, more in accord with the modern sentiment, why should that class be denied justice unless it is going to do a serious harm to the Hindus or Musalmans in one way or the other? It was said by the Hon'ble Law Member and others that it would do this harm to the Hindu and Muhammadan society, namely, that it would introduce into their society a revolution. Why? Because of the rules of succession and inheritance; because of the divorce laws. Now, as to the rules of succession and inheritance, I think that lawyers in this Council know—and I think I am speaking correctly—that so far as the father or the mother (we will take it now for example that the father is a Muhammadan and the mother a Hindu, or *vice versa*) is concerned, if the father dies leaving property, I think it will be conceded that



this property will go to his children according to Muhammadans law, his personal law, because he is a Muhammadan. I think it will be conceded that according to Muhammadan law it will go to his heirs: because he dies as a Muhammadan and whoever his heirs are will succeed to his property. There can be no dispute on that point. Similarly, in the case of a Hindu, because he marries a non-Hindu, his personal law does not cease to operate, it cannot be given up by him, therefore his heirs would succeed to him according to his law. Then as to the succession and inheritance to the property. Of the issue of the marriage the children are presumed to follow the religion and law of the father, but they declare to the contrary on their attaining the proper age. But the difficulty which may arise is with regard to the children, who declare against the faith and law of the father, as to what is to happen to their property; and for that difficulty, I submit, we have already got a remedy, so far as I understand, in the Indian Succession Act. I think it was Mr. Subba Rao who said that this Act, when it was passed (Act III of 1872), seemed to be defective in so far as it has never made any provision for the succession or inheritance of the property; but it has been advisedly left out I think. Probably they do not like to deal with this problem, and they left it out; and that problem, so far as I am able to understand, is governed by the Indian Succession Act, because the Indian Succession Act regulates the succession and inheritance of everyone except those who are saved under that Act; and the people who are saved under that Act, I think, are the Hindus, Muhammadans, and Buddhists.

Anyhow, the children if on their attaining proper age declare any faith which is neither Hindu, nor Muhammadans, nor Buddhists, their property will descend by way of succession or inheritance according to the Indian Succession Act. Therefore, I submit to the Council that there is really no difficulty about the succession. What looks like confusion in the law of succession apparently is nothing but conflict of laws which exists in all the civilized countries where you have several systems of jurisprudence existing side by side, and a person brought up under one comes to deal with the person who is brought up in another, like a Hindu and a Muhammadan. And this is already known to us in India in many other matters. Then with regard to divorce; it has already been pointed out by Mr. Basu, and I do not wish to repeat, that there are recognised judicial authorities, and that divorce is known to Hindu law according to custom, and there are a number of cases in India judicially decided to that effect.

"Therefore, the question of divorce is not at all unknown to the Hindu law. But, Sir, what is most important is this. Why should you deny a man who wants to follow a monogamous form of marriage? Why should you deny a man who wants to have the rules governing his matrimonial contract by the most civilized standard if he chooses to abide by those rules? Why should that be denied to him? I say, Sir, that the position is no doubt a difficult one, but Government have hitherto acted always on principles, and those principles are that if they found that there was any ground of equity in favour of a particular class, they would come to their rescue, and I see no reason whatever why, if the Government is convinced that equity is in favour of a certain class of people, they should not come to their help in the present case when it does no harm to others, nor does it prevent those who wish to follow their own laws or system of marriage now prevailing. But it is said that we shall incur the disfavour of the masses of the people. There are some measures undertaken by Government of momentous character and enforced by Government without even any consultation of anybody. Here, at least, you have got a very strong minority—intellectual minority—supporting this measure, and surely under these circumstances, is it too much to ask this Council to allow this Bill to go to the Select Committee and let the Select Committee make a report on it?"

**The Hon'ble Nawab Abdul Majid:** "Sir, when the Hon'ble Mr. Basu introduced this Bill last year, I was one of those who had opposed the introduction of this Bill and had then declared that the Bill, so far as Muhammadans

were concerned, was unnecessary and that it, would be unacceptable to them. Now that the Bill has been circulated and the opinion of the people has been taken upon it, and I am glad to find that the majority and substantial majority of Muhammadans is against it. Even the speakers who have preceded me they have also admitted that the general consensus of opinion of Muhammadans is against any innovation in their marriage law. I was somewhat astonished to hear my friend opposite to me, the Hon'ble Mr. Jinnah, say that just as the people are advocating on the other side on grounds of religion, and on grounds of majority, why should not one have free conscience, why should not one be given free conscience; that is to say, on equitable principles a man should be allowed to do just as he likes. But, Sir, that is begging the whole question. Here the question is this: whether those who profess to be Muhammadans, those who profess the Muhammadan religion, whether they like that this Bill should be introduced and their law of marriage should be altered or not. If one who declares himself to be a Muhammadan and wishes to abjure the Muhammadan religion and follow a Civil Marriage Act, that is quite a different case. But when you admit that you are a Muhammadan, you must abide by the law of that religion. The whole question is this: whether the introduction of this Bill will cause an alteration of Muhammadan law or not. It will cause confusion, not only in Muhammadan law of marriage, but also in other branches of Muhammadan law as well—I mean for instance succession and divorce. For instance, one may contract a marriage under the Civil Marriage Act and there may be children of that marriage. Supposing the question arises after some time, what will be the status of those children; will they be considered legitimate, or whether they will be considered to be illegitimate; whether they will have the Muhammadan law applicable to them, or some other law will be applied to them. I submit that these are difficult questions, which questions should not be brushed away simply by the reforming spirit which I see has taken possession of many Members in this Council. What I say is this, that the Muhammadans have never wanted such a measure. So far as their marriage law is concerned, it is complete in itself. They have never complained that their marriage law fell short of their requirements. That being so, why is it that my friend the Hon'ble Mr. Basu should embrace within the pale of his reforming legislation a community which has never clamoured for such a privilege which he wishes to introduce by such a Bill? Then coming to other difficulties that may arise by the introduction of this Bill, I will point out one, and it is this, and it was pointed out by the Hon'ble the Law Member, that the real and the true Muhammadan law is this that a Muhammadan can never marry an idolator. That is the Muhammadan law; it cannot be denied that it is the Koranic law. And if this is so, then when you legalize such marriages by the introduction of a Bill in this Council and by its enactment into law, certainly that will repeal the Muhammadan law itself. It may be said, and it was said, that this was not the first time that other branches of the Muhammadan law have been repealed. I agree that they have been repealed, but at the same time it is our duty as Muhammadans and as representatives of Muhammadans in this Council to safeguard the interests of our Muhammadan brethren and of our constituents. If we see, when any matter comes before us, that our religious rights, a branch of our religious law, is going to be changed by the introduction of such a measure, I say it is our duty to oppose it. Because things have happened in former times, that is no reason why we should not oppose it. We should oppose it and say that this is an intervention in a religious matter.

“ Sir, the case of Muhammadans has been very well put in the opinion given by one of the most enlightened rulers of a Muhammadan State in my own Province. I mean His Highness the Nawab of Rampur. That is a State in which the Muhammadan law is enforced. I say that His Highness's opinion is one which should carry great weight; in fact His Highness's opinion has also been relied upon by the Government of the United Provinces. His Highness says:

‘I do not think that such a law would be acceptable even to the orthodox Hindu opinion. But even admitting that it is needed for the Hindu community, the proposed measure goes



far beyond its avowed object, by embracing in its scope the Muhammadans and other communities. The Muhammadans enjoy the greatest facilities as regards marriage amongst their own co-religionists and to a limited extent also with persons of certain other persuasions. As far as they are therefore concerned, no such law seems necessary. Nor can a Bill be passed without interfering with the Muhammadan law of marriage and succession as enjoined by their religion. Inasmuch as they Muhammadans regard their law of divine origin and that it is unchangeable by human agency, they will continue to regard civil marriages as immoral, placing the issues of such marriages in awkward position.

"I think that whatever is expressed here is quite true and quite correct. Sir, I say therefore that looking to the fact that the majority of opinion is against this Bill, and also looking to the serious consequences which might ensue if this Bill is passed into law, I submit that I am opposed to its being referred to a Select Committee."

**The Hon'ble Mr. Mudholkar:** "Sir, I find it difficult to understand the position that Government have taken up in regard to this Bill. There was a time when the Government of India associated itself with individual liberty and freedom of conscience; and whenever there was any custom or usage which interfered with people's acting according to their conscientious scruples, unless there was anything in their procedure which violated fundamental humane laws or the laws of justice or the law of the land by which those persons were governed, the Government of India not only expressed their sympathy with them but did their best to help them out of their difficulties. On this occasion, however, when a case based on the existence of hardship in numerous cases is placed before the Government, instead of allowing it to be considered on the merits, and any faults or any deficiencies in it to be corrected, we find that the Government puts itself in opposition to it. This opposition seems to be based on two reasons. One reason which evidently seems to weigh with the Government is the cry that in this matter what the persons who are advocating this Bill ask is a thing which is so contrary to Hindu religion and to Hindu law that the Government would be acting very unwisely in lending their support to it. I am led to think that this was the view taken by the Government from what the Hon'ble the Law Member said in his remarks just now. I understood the Hon'ble gentleman to say that the Bill will uproot the Hindu law in regard to marriage. If I have understood him rightly (and I am open to correction and would be very glad if I be shown to be mistaken in my understanding of the gentleman), then I would point out this thing, that instead of the Bill being in any way against the Hindu law what it seeks to do is to bring about a fuller recognition of that law, a fuller, and proper enforcement of that law, and not at all any violation of it.

"In the eloquent speech of my friend the Hon'ble the Maharaja Bahadur of Burdwan, there prevailed the underlying belief that the Bill was going to revolutionize the Hindu law and Hindu society. I would only point out one small thing in regard to this matter, and it is that every Sutra writer, every Smriti writer and every Nibandha writer, including the great writers of the Mitakshara and Dayabhaga, every one of them recognized not only marriages between different sub-castes but marriages between different castes. Manu himself lays down that a Brahmin may take a woman belonging to the Brahmin caste as his wife, or he may take one from the Kshatriya caste or one from the Vaishya caste or one from the Sudra caste. Similarly the Kshatriyas, the Vaishyas and the Sudras may marry women of the same caste themselves or from an inferior caste.

"This is called the Anulom form of marriage, in which a man belonging to a superior caste marries a woman belonging to the same or an inferior caste. There is another form of marriage called the Pratilom form of marriage, in which a woman belonging to a higher caste marries a man belonging to an inferior caste. These latter kind of marriages were discountenanced in the same way as misalliances among Western peoples. But such marriages were never considered invalid or illegal. There is, so far as my knowledge goes, only in one Purana, the authority of which is apocryphal, is it said that marriages out of caste are forbidden in the Kali Yuga. The Hon'ble the Law Member knows how many Puranas there are, and what a large number of

Smritis and Nibandhas we have got; and yet in this long array of legal authorities and jurists there is only one writer who has pronounced against such marriages. We have to remember that there exist two great schools of Hindu law, the Mitakshara and the Dayabhaga, and both these works belong to the post-Puranic period. And it is very curious that neither the Mitakshara nor the Dayabhaga contain any prohibition against marriages between persons of different castes. That is a thing in regard to which there can be absolutely no doubt. So far as scriptural authority is concerned, it is distinctly and entirely on the side of those who are for this rule. It is only a custom which has grown up, which we are justified in calling a latter-day custom, similar to these other customs which have sprung up in opposition to the scriptural law.

"Sir, as the British Government consider it their duty to interpose only when they perpetuate an act of injustice, in this case is the sympathy and support of Government asked by the people who are for this reform on that very ground. The Widow Remarriage Act was one which sought to remove an injustice which latter-day customs introduced into Hindu society. The old Sastric authorities and all the old jurists sanctioned the remarriage of women. In later times, however, widow remarriage fell into disrepute, and it was considered improper. Authorities far more numerous than those who have pronounced against marriages among different castes came into existence in regard to the remarriage of widows. But on grounds of justice the British Government interposed and recognized and legalized the remarriage of widows. Now there exist the very same grounds in regard to this matter. I would ask the Council to see how many cases of hardship there really exist. Not only cannot persons belonging to the different castes intermarry, but persons belonging to the same caste but who inhabit different localities may not marry. Not only that; the Saraswats even in the same Province cannot always intermarry. I shall give an instance in regard to the Maratha Brahmins which will give a point to what I have been saying. There are three main divisions of the Brahmins among the Marathas, and these three may not intermarry. Latterly an injunction was issued by one of our spiritual heads recognizing these marriages. Still we find some orthodox people, stalwart and strong in their own views, saying that the Acharya cannot override the fact which exists at present. Not only is therefore intermarriage difficult among those three sub-divisions of the same caste, but there are still greater difficulties. There are sub-divisions of these sub-divisions based upon the particular Veda which they hold in special reverence, the Rig Veda or the Yajur Veda or the Atharva Veda. Now if all these divisions existed only as mere speculative distinctions, there would not have been much to complain of. But a great practical difficulty arises when we have a usage springing up which forbids marriages among sub-divisions of divisions of sub-castes. Many persons considered, and rightly so, that these restrictions had no justification whatever. In scriptures, they say, such marriages are recognised, and they proceeded to contract them. But what happened long after the marriages were contracted? In some cases after the persons who contracted them were dead and gone, relations ten or twelve degrees removed came and instituted suits which were carried up to the High Court and at times to the Privy Council, causing no end of anxiety and trouble. There have been conflicting decisions in regard to this matter. At one time the Courts said that they could not recognize the marriage of persons belonging to different sub-castes. Latterly the trend of authorities has been in the direction of recognizing the validity of marriages of persons belonging to different sub-castes but of the same main caste. But can we count upon the present view being maintained, where even the Privy Council have changed their minds, not only in regard to Hindu or Muhammadan law but in matters relating to the law of evidence. I do not wish to take the Council into technical discussions, but this is a thing which every lawyer friend of mine will corroborate. These are matters in regard to which different rulings have often been given. Now, can people count upon the continuance of immunity? Even supposing such immunity exists, should there be a loophole allowed by Government in regard to these matters?



"I was very glad to note what the Hon'ble the Home Member has said, namely, that the Government is in sympathy with the general principle that if these civil marriages were supplementary to marriages carried out according to the religion of the parties, the Government would not disapprove of that course. Now what I have to point out is, that in a large number of these cases the marriages had been performed not by the civil form but by the religious rites laid down by the Hindu Shastras. I know of certain marriages between persons belonging to different castes inhabiting different Provinces. The full ceremonies laid down by the Hindu Shastras were performed. But the carrying out of the ritual and the observance of the rules about ceremony will afford no protection to those persons if the question is ever raised as to whether a marriage of persons of different castes is legal or not. If the Privy Council confines itself to what exists at the present day, and to the custom which has sprung up in later times, they will say all these marriages are invalid, though the scripture says differently. Now what I ask Government to consider is this. We are told that Government ought not to interfere in social and religious matters. That is a principle which should be always kept in view, but along with it also is a different principle, namely, of the free scope which should be afforded to conscientious scruples so long as they do not involve any violation of the moral law or the dictates of true religion. Now here in this matter, what is that which we ask? Do we say that the general rules, about rituals and ceremonies to be observed, are in any way to be affected? That persons, whether they agreed or not, should be subjected to the changes which are just now suggested? All that is asked is that an enabling measure may be passed which would put it in the power of persons, who following the dictates of their conscience and acting according to the scriptural law, contract marriages in the form laid down in the Shastras, but who, seeing the difficulties imposed by custom, wish to supplement all those ceremonials and rites with the sanction and the further security given by the civil law. Now is there anything unreasonable or improper in the demand? Does it not deserve the sympathetic consideration of Government? This is an aspect which I wish had been seen more fully.

"Then it is said that the Bill is opposed by an overwhelming majority of the Hindus. Now, Sir, we have seen what kind of opposition there was in 1891 to the Age of Consent Bill. In places where large meetings were not accustomed to be held, we find thousands and thousands meeting and denouncing the measure that the Government had introduced. At Amraoti, in a meeting attended by no less than 5,000 people, there were only twenty of us who stood there entering our protest against their resolutions. There were only twenty persons from that town who supported the Age of Consent Bill. In Poona such venerable persons as Sir Ramkrishna Gopal Bhandarkar and others of his position were practically mobbed for giving their adhesion to the Bill. As to Calcutta our friend the Hon'ble Mr. Basu has given his experience. And in spite of this vehement opposition, the Government carried the measure through. I shall give another example of a cognate matter which had happened only a few years previous to this. There was a slight alteration proposed to be made in the Civil Procedure Code in regard to the abolition of imprisonment in execution of decrees for restitution of conjugal rights. There was on that occasion also a storm of indignation, a storm in which both Hindus and Muhammadans participated. Well, if the Government paid no heed to these things, why should Government not interfere in the present case? It was guided then by higher considerations and by more enlightened views of the position of women.

"Then in regard to purely social matters also, have not Government interfered on other occasions? There is first of all the law under which persons who have changed their religion, were declared not liable to forfeit their rights of inheritance. Now, Sir, if there was any interference with the law of inheritance and with the religious observances and religious laws of any community, Hindu or Muhammadan, it was that law. But again higher considerations of individual liberty and conscience weighed more with Government and that measure was passed into an Act. Then we have the Hindu Widow Remarriage Act, and

later on the Act III of 1872 to grant relief to Brahmos? Now, is the case of the Brahmins and persons belonging to the Hindu religion who scrupulously follow the essentials of that religion but hold views regarding marriages between different castes other than those held by the persons who have been opposing the present Bill less entitled to consideration? They are men several of whom lead a purely orthodox life and who perform their marriages according to strict orthodox rites. They are the persons who are entitled to the same kind of sympathy, support and relief that was granted in the days of yore to the Brahmo Samaj. There it was an infinitesimal minority, you may even call it a microscopic minority or whatever you like. It was a minority, anyhow; yet the claims of that minority were so strong that they appealed to the conscience of the Government and Government consented and gave its support. This case is precisely like that, and on these grounds I think that the portion of the Bill which relates to Hindus should certainly receive the favourable consideration of Government.

"Now in regard to my Muhammadan countrymen; if the bulk of the Muhammadan community does not want the Bill, and there is no important Muhammadan minority which demands it articulately in the same manner as the demand is made on behalf of the Hindus, they might be left out of the present Bill. But this is a matter that can, I think, be dealt with in the Select Committee.

"Similarly in regard to the Parsis. The Parsis do not want it; the demand has not come from a sufficiently large number of Parsis; so the Parsis might also be eliminated.

"But omitting these communities there is left a residuum of no little importance, an important minority which deserves to be taken into consideration. Pray, Sir, what is an overwhelming majority in a case of this description? If we were to go even by mere numbers and by the right of intelligence of those consulted, even then the weight of opinion is, I think, in favour of the Bill. So far as the Hindus are concerned, the bulk of educated opinion is distinctly in favour. I was sorry to hear my learned friend the Hon'ble Law Member suspect that nationalistic sentiments had possibly some weight with the mover of the Bill. Well I cannot pretend to go into the depths of the mind of my friend Mr. Basu, though he is an intimate friend of mine. I can say this much that never in the discussions that we had, were political considerations ever adverted to for a moment. But what is certainly more conclusive than this. A man like Dr. Sir Ramakrishna Gopal Bhandarkar, a man who has been always honoured not only by the Government of his own Province, but also by the Government of India, who has kept clear of politics and was devoted to literary and philosophical pursuits, a man who has devoted his whole heart to social and religious reforms, has strongly supported this measure. Certainly a man like him would not at all have joined in this matter if there were political considerations behind it. Then, we have Sir Narayan Ganesh Chandavarkar, a stalwart and a strong supporter of social reform, a man who scrupulously follows the rule which enjoins upon Government servants, especially the judiciary, not to take part in politics; and that man has given his emphatic opinion in favour of the Bill. Another thing which ought to weigh with Government is this. If there is any Province in India where orthodox beliefs, genuine orthodox beliefs, have greater weight and strength than anywhere else, it is Madras. It is there that we find that the observance of rigid caste rules is carried on to a far greater extent than elsewhere, and there we find that the majority of the educated people are distinctly in favour of Mr. Basu's Bill. That again is a matter which should have shown that these things could never have been so repugnant to Hindu opinions and to the Hindu scriptures as has been supposed by some of my friends who opposed it.

"I do not wish to take the time of the Council any further, but there is one thing which I would wish to emphasize. Our plea is a plea for toleration; our plea is a plea for individual liberty; our plea is a plea for allowing people to act according to their conscience and not to compel them to smother it. What is it that these friends, I mean my Hindu friends, what is it that they



would impose upon their own countrymen. There are persons who strongly believe that these things can be carried out under the laws; at the same time they wish to protect themselves. The option accorded to these people is to leave a great danger hanging over their children or to perjure themselves if they go to the Registrar, take a false oath and say we are not Hindus, though in the heart of their hearts and in actual practice they might be far more Hindus than those who speak in the name of Hinduism. Now this is a thing which the Government I hope will weigh when the question comes before them again as it is bound to come. My Hon'ble friend the Law Member said that the first sod has now been broken, yes, but not for political reasons, but on grounds of social and religious elevation; for securing to womanhood that dignity and that position which it is entitled to.

"I shall make only a reference to the section about divorce. My friends who say that the Bill seeks to introduce a novel principle have ignored that divorce as a matter of fact exists amongst the majority of Hindus. It is only amongst the higher classes, the twice-born classes (Dwijas) that divorce has become obsolete. The old Ghataspote has gone out of fashion among them. But in regard to the masses, the Sudras, the law of divorce exists there and it has been recognised by our Courts and is in force everywhere. Now these are persons who would be entitled to enforce the law of divorce irrespective of Mr. Basu's Bill. Then again, the section relating to divorce is not one essential to this Bill. It would be very easy to make alterations in the Select Committee, and there is no reason why on that ground alone this Bill should be thrown out. As I said, we have the demands of justice behind us, and we hope that these demands will receive the consideration of Government in spite of what has fallen from the Hon'ble the Home Member and the Law Member."

**The Hon'ble Khan Zulfikar Ali Khan:** "Sir, while fully appreciating the admirable effort of the Hon'ble Mr. Bhupendranath Basu towards infusion of different castes and creeds in India by means of the Bill which has come up before this Council to-day for discussion, I cannot refrain from saying that his laudable desire is to my mind rather too ambitious for any reasonable hope of its being generally approved by the followers of numerous creeds in this country for whose avowed benefit my Hon'ble colleague has designed the Marriage Bill.

"The Hon'ble Member will perhaps agree with me that the time has not yet come for such arbitrary re-adjustments of social arrangements which have the sanction of centuries of unchallenged practice. Sir, in matters social and religious, reform should always be initiated by the awakened conscience of the people themselves, unless of course the evil desired to be remedied is of such a nature as to endanger public morality and safety. In the Statement of Objects and Reasons, or even in his speech, the Hon'ble Mover of the Bill has failed to demonstrate the existence of any such imperative necessity. Besides this the attitude of Government in such matters has generally been one of strict neutrality, and any departure from this wise policy will, I venture to say, be keenly resented by the people.

"If national well-being is likely to be promoted by legislation, let the voice of the people in harmony and perfect accord be raised in its support, and Government will, I believe, respect the united will of the people; but in the present case there is a vast majority opposed to the proposed measure. The Hon'ble Mr. Basu might have excluded the Muhammadans from the scope of his Bill for the simple reason that the 'nikha' ceremony among them is based on the injunctions of the Koran, which is believed by them to have divine origin, and any law which tends directly or indirectly to supersede, abrogate or add to Muhammadan law of marriage as prescribed in their scriptures will be repugnant to their feelings and should not be countenanced.

"Sir, although the bill is wholly optional as regards the contracting parties, the legislation of the marriages which it contemplates is sure to involve infringement of the recognised law of inheritance, and guardianship of the Muhammadan-Hindus and thus affect the rights of relations who are orthodox followers of these creeds. In view of these difficulties, which, in my opinion, are inseparable from the operations of this Bill, I suggest that the proposed measure be dropped."

**The Hon'ble Mr. Shamsul Huda :** " At this late hour, I do not desire to detain the Council for more than a very few minutes. I represent in this Council the orthodox Muhammadans of Eastern Bengal. I do not take the conception of my duty, as a representative, from what has been said by my Hon'ble friend Mr. Jinnah. I really think that if at any time I found that I was not able to represent the views of those through whose indulgence I am here, it will be my duty to give them an opportunity of sending another representative here. Sir, as a representative of the Muhammadans of Eastern Bengal, I feel it my duty to strongly oppose this measure. I appreciate the commendable motive with which my learned friend has introduced this Bill; but at the same time, Sir, I must say that even if I looked upon it as a real measure of reform, I would not support a measure, even a measure of reform, which is to be forced upon an unwilling people. The question should always be ' If it is the reform, are the people prepared for it ? ' Some of my friends say, well the opinions of the masses do not matter when the more intellectual people say, ' take our opinion, we shall think for them. ' This is a view which may be pushed a little too far. The necessity for a Legislative Council may not be proved and the official members may say ' we are much more intelligent than the Indians ; their opinions do not matter much ; we will think and legislate for their benefit. ' That is a position which I am not prepared to accept. Now, Sir, from the speeches made by some of my friends, to an outsider it would appear that what this Bill was intended to remove was something as iniquitous in principle as the burning of the sati or infanticide. Does the existing law really impose any disability upon any individual ? It allows a Hindu or an Indian, if he chooses to marry against the tenets of his religion, to do so with perfect freedom. There is nothing that compels him to do anything. My friend wants to satisfy the very peculiar sentiments of certain people and the sentiment has appealed so strongly to my Hon'ble friend Mr. Jinnah that he would even consent to an interference with Muhammadan law in order to satisfy this sentiment. I am not prepared with a light heart to say that the Muhammadan or the Hindu law should be interfered with in this manner. And after all, what is this sentiment ? The sentiment is this : a man is not prepared to obey the dictum of his religion, whether the Hindu religion or Muhammadan religion, in one of the most serious concerns of his life and yet insists on calling himself a Hindu or Muhammadan. I do not think, Sir, that this is a very commendable sentiment. There is a great deal of hypocrisy in this world, especially in matters of religion, and I do not feel that we are called upon to give it a legislative sanction. Some of my friends have adverted to the fact that the introduction of the measure would bring in a very great conflict in the laws of the country. I would like to say one or two words in addition to what has been said on the subject. Suppose a Muhammadan and a Hindu intermarry under the Act, supposing that the Bill is passed into an Act ; what happens is that the Muhammadan continues to be a Muhammadan and the Hindu continues to be a Hindu ; and then the question arises, what is the offspring of such a marriage—a Muhammadan or a Hindu ? My learned friend, the Hon'ble Mr. Jinnah, says he is neither a Muhammadan nor a Hindu and he is governed by the Succession Act. If the effect of this measure on mixed marriages in the next generation is to take out the offspring from the category of both the Muhammadan and the Hindu religion, I am afraid the Hon'ble Mr. Basu will not thank his own Bill for bringing in such a result. I submit that various difficulties will arise if such a child is not to be called a Muhammadan or a Hindu. My learned friend says that so far as the law of Succession goes, the Succession Act will apply if he is neither a Muhammadan nor a Hindu. I do not think that he can be a third something. As to the law of Succession and the law of marriage, you will not know where you are and I say that you will be treading on very dangerous ground if you supported this measure. My friend, the Hon'ble Mr. Jinnah, has said that in matters of contract the Muhammadan law has been abrogated, and if the Muhammadan law has been abrogated in one instance there is no reason why it should not be abrogated in other respects. If this is the frame of mind in which interference with the religion of Muhammadans is looked upon by the Hon'ble Member, I think that he does not represent the wishes of his constituency."



**The Hon'ble Pandit Madan Mohan Malaviya :** "Mr. Vice-President, the pronouncement that has been made by the Hon'ble the Home Member regarding the attitude of the Government towards the Bill before us makes it unnecessary to discuss it at the length at which it would have been necessary to do so in the absence of such a pronouncement. But the arguments which have been urged in support of the Bill make it desirable that the reasons which underlie the views of large sections of the community who are opposed to the Bill should find a little more expression here in the Council. And this is the only consideration which leads me to take up the time of the Council at this late hour.

"When the Hon'ble Member asked for leave to introduce the Bill last year, I opposed the motion, because I felt sure that the Bill would not meet with the approval of the great bulk of the people of the country. Events have justified that view. The opinions that have come in from those that were consulted show that the great bulk of the people of all the different sections of the community are entirely opposed to it. These opinions and the opinions of the Local Governments leave no doubt whatever about the matter. But the Hon'ble Mr. Basu says that he has got on his side the support of a large number of persons, and he has given us both the number and the names of some of those supporters. It becomes necessary therefore to examine his position a little. Now, Sir, an analysis of the names of those who have supported the Bill will show that they are mostly gentlemen who are known to hold opinions on questions of religion and social reform widely different from the opinions of the general body of the people of the community to which they belong. Their opinions do not in such matters carry any weight with the community, and it is nothing but right that they should not carry more weight with the Government in dealing with such questions affecting the community.

"In discussing the Bill I wish in the first place to invite the attention of the Council to the nature of the amendment which has been proposed. It is an amendment to Act III of 1872, which was an Act to provide a form of marriage for persons professing the Brahmo faith. The nature and history of that Act has been told, and I need not repeat it at length. That history shows that the first Bill which was drafted by Sir Henry Maine was of a rather comprehensive character, and was therefore universally condemned as such. When the Hon'ble Mr. Stephen took up the measure in 1872, he kept the principle clearly before his mind that Hindu marriages are, even by Anglo-Indian law, to be regulated by Hindu law, and that 'in relation to the subject of marriage Hindu law and Hindu religion are two names for one thing.' Mr. Stephen recognised that the Bill that had been drafted by Sir Henry Maine 'did constitute an interference with Hindu law,' that 'it would change very deeply the native law of marriage,' that 'in short, it would introduce the European conception of marriage in the Hindu and Muhammadan communities, and give to it, by law, a place amongst Hindu and Muhammadan institutions.' He very rightly pointed out that a law might be changed by addition as well as by other forms of alteration. It was for these reasons that the Bill was modified and special provisions were introduced in it to confine its operation to the Brahmo community. The Bill was passed in that modified form with the consent of the leaders of the Brahmo community. In that form the Act stands in the Statute-book to-day. The Brahmo community did not complain of any hardship under the Act as it has existed for these many years. But the Hon'ble Member has said that it is with a view to relieve the Brahmans of the hardship which, he says, they feel, that he has introduced this Bill. He says that they feel it a hardship that when marrying under the Act they should be required to make a declaration which has been described as a negation of faith in all the religious systems of India. But is that a correct statement? Can any one who professes the Brahmo faith feel any conscientious scruple or regard it as a serious ground of objection that he should have to make such a declaration. The declaration is that 'I do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jain religion.' Now confining myself to the Hindu religion, can there be any

doubt that the words distinctly and plainly refer to the Hindu religion as it is understood by the bulk of the people of this country and by Courts of Law administering justice to Hindus in matters of marriage, inheritance, etc. Clearly Hindu religion there only means the religion followed and adopted by the great bulk of the Hindus. Can any of my Brahmo brethren say that they follow that religion? Is not the faith that they follow different from the Hindu religion as it is generally understood? And how does the Hindu community, divided as it is in matters of faith, stand at present? The last census returns show that among Hindus there were more than 21 crores and 73 lakhs of persons who were classed as following the Brahmanic faith, 243,514 who followed the Arya faith and 5,504 persons who followed the Brahmo faith. Now, Sir, in the case of these 5,504 persons it is clear that they have got a certain faith which is by this time well-defined. It is clear that the Brahmo faith cannot by any stretch of language be regarded the same as the Hindu religion which is spoken of in the declaration. Any man of common sense would accept the view that the Hindu religion referred to there is different from the Brahmo faith and that it is the religion which is referred to as such in the administration of justice to Hindus in Courts of Law and in legislation undertaken by Government. I submit therefore that there is really no hardship in the case of Brahmos who are required to make the declaration in question. But assuming that there is, a simple mode of remedy will be to introduce a Bill to lay down that, when marrying under the Act, Brahmos will not be required to make such a sweeping declaration, but that it will be sufficient for them to say that they are Brahmos or that they follow the Brahmo faith. In that way a simple modification of the Act could be made to meet any real hardship that may be felt.

"But, Sir, the object of the Hon'ble Mover of the Bill is much larger, and he has not concealed that it is so. In his opening speech, when asking for leave to introduce the Bill, he said that a simple law of marriage like what he proposed was needed to help those who desire to introduce inter-marriages between different sub-sections of the same caste and between members of the same caste inhabiting different Provinces of India; also marriages between members of different castes and marriages between Hindus and non-Hindus. While seeking therefore to mitigate the real or fancied hardship of our Brahmo friends, the Hon'ble Member has sought to introduce radical changes in the Hindu law of marriage, which would very seriously affect Hindu society. Now with regard to the first two of these, namely, marriages between sub-sections of the same caste and between members of the same caste residing in different Provinces, it has been urged that doubts have been raised as to the validity of such marriages. If it is so, it is extremely regrettable. Such doubts can find no sanction or support anywhere in the Hindu Shastras. What is prohibited is marriage between persons of different castes. Members of sub-sections of every independent caste are free to marry among themselves. The issue of such marriages will be perfectly legitimate and fully entitled to inherit. If custom does not approve such marriages, that is, if the particular society to which an individual belongs does not look with favour upon such marriages, that may affect the social intercourse of those who enter into such marriages. It cannot affect the legal status either of the parties to the marriage or of their children. It is purely a social question which can be solved by agitation within the society. So also is the question of marriages between members of the same caste residing in different Provinces. They are perfectly valid according to law, that is, there is absolutely no religious prohibition against them.

"As regards marriages between members of different castes, they stand on a quite different footing. My Hon'ble friend has quoted ancient authority to show that at one time marriages between different castes were permitted. He need not have taken all the trouble he has taken to establish this point. Anyone who is at all acquainted with the Hindu Shastras can say that in the early days marriages did take place between Hindus of different castes. There were two kinds of marriages: marriages between a man of a higher caste with a woman or women of a lower caste. There were also marriage connections



between a man of a lower caste and a woman of a higher caste. The latter were called *pratiloma* connections. They were always condemned, and their issue were condemned to a lower social and legal status. The first kind of marriages were called *anuloma* marriages. Under these a Brahmin was permitted to marry a Brahmin, a Kshatriya, a Vaishya and a Sudra wife. A Kshatriya was permitted to marry a Kshatriya, a Vaishya and a Sudra wife. A Vaishya was permitted to marry a Vaishya and a Sudra wife. A Sudra was permitted to marry only a Sudra wife. These unequal marriages involved other inequalities. Rules had to be laid down regarding the positions that a man's wives of different castes were to occupy among themselves. The Brahman wife was to take precedence over wives of other castes. She was to officiate in all important ceremonies, and whenever there was a competition between wives of different castes, the wife of the humble origin had to stand in a humble position. There were also different rules regarding inheritance. It was laid down that sons born to a person of the higher caste out of a marriage with a woman of a lower caste, would receive a smaller share of the inheritance than sons born of a woman of the same caste. Thus the permission about marriages between different castes, that is, between a man of a higher caste with a woman of a lower caste, was accompanied by these differentiating rules regarding precedence among wives of different castes and regarding inheritance among the issues of such marriages. Naturally marriages of this kind never became common, and those who were responsible for the welfare of the Hindu community—the custodians of Hindu law—recognised that where they did take place they led to disagreeable distinctions and heart-burning, and they rightly thought that these ought to be put an end to. It was for this reason that not less than three thousand years ago it was laid down by our lawgivers that marriages between persons of different castes ought not to take place in this present age. That, Sir, is the history of the rules of marriages between persons of different castes in early days among Hindus. I should like to know if my Hon'ble friend is prepared to revive such marriages with all the inequalities incidental to them, as they are laid down in the Shastras. The custodians of Hindu religion, as I have said, thought it wise to prohibit such relationships a long time ago. Their decision has been accepted by the Hindu community. They have condemned marriages between different castes throughout these three thousand years and more. Such marriages are not considered respectable by any section of the community. Every caste considers it respectable to marry within its own independent and well-defined body. There have practically been no departures from these principles. They are accepted not only by Brahmins, but by all castes throughout the whole of India. They are as strongly adhered to by the humbler as by the higher castes. My humble brother, the sweeper, will as much object to marry his daughter to a member of the brotherhood of the Hon'ble Mover and even to a Brahmin, as a person belonging to any of the higher castes. He considers this rule of marrying within one's own caste as an honourable and respectable rule, and follows it with as much tenacity as any member of the higher caste. But my friend now comes forward with a measure proposing to introduce radical changes in the Hindu law of marriage against the established rule of three thousand years and more, and supports it by argument that at an earlier period in the history of the Hindus some such marriages were permitted. It should not have been necessary to say that it is not what was permitted three thousand or four thousand years ago in a certain community that determines what would be acceptable to it today. It is the laws, the rules, the customs, the sentiments which prevail in the Hindu community at large to-day that ought to be taken into consideration in determining what legislation would and what would not be acceptable to them. The measure put forward by the Hon'ble Member runs counter to those laws and beliefs. It is not surprising therefore that, so far as marriages between different castes are concerned, the Bill of my Hon'ble friend has met with opposition from the great bulk of the community. And I am very thankful to find that the Government have rightly decided not to support it.

"I may say in passing that it is regrettable that in his zeal to find some support for his proposal from Hindu history, the Hon'ble Member misquoted that history (as for instance, in saying that the mother of Veda-Vyat was a fisherwoman, for she was really the daughter of a Kshattriya brought up by a fisherwoman) and made an unjust and vehement attack upon the Brahmins. I can only characterise the attack as impertinent. I will not take up the time of the Council by replying to it. It is not even relevant to our present discussion. I hope that in his calm and sober moments my Hon'ble friend will regret having made many of the remarks which he has made today regarding the purity of castes and the relations of the different castes among themselves.

"But there is a still wider aspect of the measure which my friend has advocated, namely, marriages between persons professing different creeds, about which I must say a few words. The idea of such marriages is most repugnant to the Hindu mind. It has always been so. There is no doubt in one sense only one caste of man in this world and that is co-extensive with mankind. But the state has not yet arrived, and I do not think that it is ever likely to be arrived when the bulk of mankind will be willing to give up, in relation to social and religious questions, all distinctions of country, caste and creed which are at present observed in one form or another by nearly all the important communities into which, owing to one cause or another, mankind is divided. Whatever may be said in theory, we find that in practice Christians object to marry non-Christians, Muhammadans to marry non-Muhammadans, Parsis to marry non-Parsis, and so on. Hindus therefore do not stand alone in their objection to marry non-Hindus. And this sentiment is not of recent growth in any of the communities. My friend has referred to certain cases of marriages between persons of different creeds. But they are conspicuous exceptions and, by their very rarity and conspicuously exceptional character, they lend strong support to the general rule. He has referred to the one or two well-known instances in which marriages took place between certain Hindu princesses and Akbar and his son. The Hon'ble the Law Member has explained what probably the true nature of these marriages was, that they were not marriages between a Muhammadan and a Hindu but between a Muhammadan and a Hindu converted to Muhammadanism. But whatever the truth about it may be, there can be no doubt that these marriages never commended themselves to the Hindus. The Hindus showed in an unmistakable manner that they regarded them with disapproval. This is abundantly clear from the fact that though certain Hindu Chiefs did, under the overpowering pressure of the unfavourable circumstances in which they found themselves, most reluctantly agree to give their daughters away in marriage to the Mughal Emperor or his son, they steadily refused to accept a Muhammadan as a wife or a daughter-in-law as it would have affected the purity of blood in the community. A great deal of history entwines round this question. The depth of Hindu feeling against marriages with non-Hindus is attested by the fact that the Maharanas of Udaipur are held in the highest respect not only among Rajputs, but throughout the whole Hindu world, because they refused to enter into and even recognise marriage alliances with the Mughal Emperors. This feeling is as strong to-day as it was ever before. Only the other day in the course of a conversation an enlightened Rajput Chief told me that the opposition to Mr. Basu's Bill was as strong among Rajput Princes, both orthodox and un-orthodox, as it was in any other section of the community, for they valued the purity of their blood and were proud of it. But as I have said before, this feeling is not confined to the Rajputs only. It is shared by all sections of the community. And I submit, Sir, that this being so, it is wrong on the part of my Hon'ble friend, the author of the Bill, and his supporters to ask the Government to ignore this feeling and to press the proposed piece of legislation which is clearly calculated to disintegrate Hindu society by introducing into it a law of marriage, repugnant to the traditions and beliefs of that society.

"I regret I have not the time to deal with the many other objections to which the Bill is open—its disturbing effects upon the laws of succession



and adoption, its destructive influence upon the joint family system, etc. My friend has tried to show that the objections which have been urged on these and other grounds are all equally untenable. He does not feel any difficulty in sweeping aside any of the objections which have been raised. It has been pointed out that the measure will create confusion in the matter of succession. That does not matter, says he. Confusion there already is and his measure would not make it worse confounded. It has been urged that the Bill will create dissensions among members of a joint family. Let them end it by a partition, is my friend's answer. That is indeed a novel way of supporting a new piece of legislation. Nor has he found greater difficulty in disposing of the objection that the Bill will introduce divorce into Hindu society. It should be welcome, says the Hon'ble Member, for is there not much to be said in favour of it? Now, Sir, there may be much to be said in favour of it. Divorce may be reasonable in a particular set of circumstances. But when you are to judge an institution, you ought in fairness to judge it as a whole. And the Hindu law of marriage ought to be judged as a whole. Divorce may have its advantages, but the absence of it also, I submit, has certain advantages. And I venture to think that Hindu society has lived happily during these many thousand years, under its own marriage laws, not less happily on the whole than communities among whom divorce is permitted. At present no doubt we have fallen low in the scale of nations in certain respects, but we have not fallen low altogether. And for a long time this same code of law, which has been so light-heartedly condemned by a Hindu brother of mine to-day, helped the Hindu community to attain to and maintain a position of prosperity and power which was second to none in the world. Our laws ought not to be judged piecemeal. Judge them as a whole and then consider whether they are not fully calculated to promote the well-being of the society which follows them. There may be something in Hindu law which is less acceptable than a particular item of Muhammadan law. There may be a third provision of Christian law which may be more acceptable than either, and *vice versa*. But it is not given to each individual follower of a faith to introduce eclecticism in the matter of law any more than in the matter of religion; at any rate the bulk of the community have not yet made up their mind that it should be so. If I believe in a particular religion or I choose to live as a follower of that religion, I have to accept that religion in all its essentials, and the marriage laws are among the most essential among the Hindus. A member professing to belong to a large community is not justified in asking the Government to amend or modify a particular provision of the law of the community against the wishes of the community. Today my friend asks that the marriage law should be altered; tomorrow another friend may come up and say that the law of adoption should be ended; a third day another Hindu Member might urge that the Muhammadan law of inheritance should be substituted for the Hindu in the case of daughters, for he sees no reason why his daughter should not inherit in the same way as his son. For every one of these proposals a certain amount of support will always be forthcoming, and yet it would undoubtedly be unfair to the community as a whole to entertain any such proposal against its collective wishes. It would be a very dangerous procedure also. And it is a matter of much satisfaction to me to find that the Government has decided to oppose the Bill.

"I do not think that I need detain the Council any longer. But before concluding I should like to remind the Council of certain observations which occur in the speech of the Hon'ble Mr. Stephen made in introducing the Bill which subsequently became Act III of 1872. In the course of that speech, after explaining the nature of Indian personal law, the Hon'ble Member said:

'It is, I think, self-evident that it (the personal law) ought not to be changed except in extreme cases. Laws relating to such subjects as marriage have their root in the whole history of a nation; nor is it easy to imagine a more tyrannical or a more presumptuous abuse of superior force than that which would be involved in any attempt to bring the views and practices of one nation upon such subjects into harmony with those of other nations, whose institutions and characters have been cast in a different mould.'

“Proceeding further the Hon’ble Member said :—

“I should wish to act justly by the Hindus and the Hindu law, because, as I said, I believe justice to be the rock on which our rule should be founded ; and I have already shown in what manner this great principle bears on the present subject. But quite apart from the question of justice, it would not please me at all to strike an indirect blow at the Hindu law or religion. I cannot regard it or any of the other creeds under which countless multitudes of men have lived and died, as simply evil. I should be grieved at the thought that English civilisation was a blind agent of destruction like the cannon-ball shattering that it may reach and what it reaches.”

“That, Sir, was the view of the Government of India when the Act which it is now proposed to amend was passed. And I am thankful to find that the same view is held by the Government to-day. The Government have earned the gratitude of large communities of the people by showing that deference to public opinion which they have shown in deciding to oppose the measure. I hope that it will not revive for a long time to come.”

**The Hon’ble Mr. Mazharul Haque :** “Sir, the fate of this Bill, a very necessary and reasonable Bill, is sealed. The Hon’ble the Home Member has refused to accept it on behalf of the Government, and, much to my surprise, the Hon’ble the Law Member has also given his weighty support to that refusal. We have had the semi-official view of the Hon’ble Maulvi Shamsul Huda, who has also opposed it. Sir, when this Bill was introduced by my Hon’ble friend last February, I had the honour of giving my support to it. I had expressed the view that my sympathies were entirely with the principle of the Bill. Since then an enormous amount of literature has accumulated round this measure. I have gone through them very carefully, although it has been rather a tedious task, and I must say that I have to make a similar confession. I remain unconvinced by the arguments of the opponents of this measure. I still believe that this Bill is a very necessary Bill, and ought to be passed. But before I proceed to discuss it in some of its details, I should like to guard myself from one misapprehension, and that is that the views that I am giving expression to are my personal views. It would not be honest of me to fasten them upon my community. I know that for the present it does not share my views and will have to be educated.

“Sir, to my mind, speaking here as a Musalman (I will not trespass on the Hindu law which I leave to others), the only question is, whether the principle which is involved in this Bill is permitted by the Musalman law. If it is in conformity with the Musalman law, then there should be no difficulty on the part of the Government to accept it. But if it is against the Musalman law, I would be the last person to advocate its acceptance. Let us see what is the Musalman law on the point. I was rather surprised to find such an eminent lawyer as the Hon’ble the Law Member expounding the proposition of law that the marriage of a Muslim with a Hindu is illegal under the Musalman law. I, with the greatest respect to my Hon’ble friend, demur to that proposition. Sir, my own opinion may not carry much weight in this Council, but I have the opinion of one of the most eminent Musalman jurists of India, whom I believe my Hon’ble friend Mr. Muhammad Shafi will also admit to be as such—I mean the Right Hon’ble Mr. Amir Ali. India has not produced up to this time among the Muhammadans—barring perhaps the late Mr. Justice Mahmood—a more eminent jurist than the Right Hon’ble gentleman. Last February when I was discussing the subject I was giving my own interpretation of the law, and I was not then aware that the Right Hon’ble Mr. Amir Ali had in almost identical words expressed his opinion in his book on Muhammadan law. Mind you, this opinion was given by the Right Hon’ble gentleman not as a politician, but as a lawyer, as an eminent Judge of the Calcutta High Court. I hope this Council will bear with me in reading a passage from his book. It is a short one. ‘But it is a mistake to suppose that under the Musalman law a Musalman may marry a woman belonging to the revealed faiths *only*, by which are meant Islam, Christianity and Judaism.’ Here the word ‘only’ has been italicised by Mr. Justice Amir Ali himself. ‘Marriages are allowed between Muslims and the Ahl-ul-Hawa (free thinkers), the Sahaens, Zoroastrians’



(Mr. Dadabhoy will please note that) 'as well as the Jews and the Christians A Moslem may, therefore, lawfully intermarry with a woman belonging to the Brahmo sect. Nor does there seem to be any reason why a marriage with a Hindu woman whose idolatry is merely nominal and who really believes in God should be unlawful. The Mogul Emperors of India frequently intermarried with Rajpoot (Hindu) ladies, and the issue of such unions were regarded as legitimate and often succeeded to the Imperial throne. What the Muhammadan law requires is that any such union should not lead to the introduction of idolatry in a Muhammadan household.' Sir, if I err, I err in the company of the Right Hon'ble Mr. Amir Alli, and I refuse to follow others, however eminent they may be. This is the real Musalman law, and I stand by it. When I express the view that this Bill should be passed, I express the correct proposition of Muhammadan law.

"Sir, this point being disposed of, let me advert to certain objections which have been raised against the measure. A friend of mine made the remark—and this objection, I believe, is taken in one of the printed papers as well—that if really the Musalman law allows a Moslem to marry a Hindu, then there is no need for this legislation. I reply that people who raise this objection forget that there are two parties to the transaction of marriage. The Musalman law may allow, as it does allow, such intermarriages; but the question is whether the Hindu law allows them. The Hon'ble Pandit Mohan Malaviya, the representative of the orthodox Hindus, says that the Hindu law does not allow them. The Hon'ble Mr. Basu, the exponent of the opposite school of thought, would not perhaps have brought this Bill if he had been sure that the Hindu law allowed them. Such being the case, I say that it is necessary that this legislation should proceed.

"Sir, something has been said in this Council as regards the status of the children born of this intermarriage. Further, that how and by what laws of inheritance these children will be governed. I entirely agree with my Hon'ble friend Mr. Jinnah that to me there seems to be no difficulty whatever on these points. The children will follow the law of their father if they inherit from him; they will follow the law of the mother if they inherit from her. Muslims are allowed to marry Christians, they are allowed to marry Jews, and in those cases there has been no difficulty about inheritance. Why should there be any when they marry Hindus? As regards the religion of the children, they should be allowed to follow whatever religion they like. In these enlightened days why should we force our religion upon any one? If they like to be Hindus, let them be Hindus; if Muhammadans, let them be Muhammadans. That is their business, not ours. There should be perfect freedom of conscience in the choice of religion. I was rather surprised to hear from my friend the Hon'ble the Law Member that in the opinion of Sir Roland Wilson, when the Moghal emperors took Hindu ladies as their wives, these ladies had to abjure their religion, and make a nominal profession of Moslem faith. I deny the correctness of this proposition, although it is based upon the high authority of Sir Roland Wilson. If Sir Roland had read the great histories written in the Persian language, he would have known that these Hindu ladies had apartments reserved to them for their devotion and worship according to Hindu faith. That is a fact which history proves to the very hilt.

"Sir, there is another consideration which induces me to give my hearty support to this measure. I have been thinking for a long time that there is some reason for the general stagnation of the followers of Islam throughout the world. We find that country after country is passing away from the hands of the Muslims—countries which were under their sway for centuries and centuries. We find that Musalmans all over the world are standing still and not progressing at all. Surely there must be some reason for this deplorable state of Muslim society, and I have come to the conclusion that it is because my community has ceased to produce liberal thinkers, that we have reached the zenith of our degradation. We have no Abu Hanifa or Ghazali in our midst who could fearlessly interpret the text in a liberal spirit. We see that the old rules of law, which have no bearing upon modern life and

modern civilization, are still being adhered to. Sir, a time must come when Muhammadans in India will have to revise their views about marriage laws. In my opinion their present views are not in accordance with Muhammadan law, and they must revise them in conformity with the true spirit of their religion. There is a silent, but sure and steady, revolution going on in the precincts of the zenana. Indian ladies, Muhammadans and Hindus alike, are being educated, and the day is coming when they will demand their rights—rights given to them by God and nature but denied to them by man in India. That day is soon coming, and before it actually comes, let them, whoever they may be, Musalmans or Hindus, revise their laws of marriage. Young men will meet young girls, nature will have its own way, and no law will be able to prevent them from contracting marriages according to the dictates of nature. Otherwise, they will go to England and other countries where they can easily get themselves married. That time is coming. Let us take it by the forelock and see whether we cannot mitigate its possible hardships by the revision of our present laws.

"I believe I have expressed my views as honestly as I could, but I must again guard myself by saying that these are my personal views. At the same time I do not agree with my Hon'ble friend Mr. Shamsul Huda that because on one particular point I happen to disagree with my community, I must resign my seat in this Council. I have an individuality of my own, which I must preserve at all costs. Perhaps my people will be annoyed with me to-morrow; but what of that? I do not like to give opportunity to people with conservative views to come into this Council and give expression to them. We must advance with the times. Are we to go back to the olden times of thirteen hundred years, fourteen hundred years, or even two thousand or three thousand years ago? We are in the twentieth century, and we have to regulate our lives by the standard of modern civilisation; otherwise we better not talk about elective and representative Governments. We are unfit for these institutions if we stick to old, rusty ideas. Sir, with these words, I strongly support my Hon'ble friend."

**The Hon'ble Mr. Gokhale :** "Sir, after the speeches of the Hon'ble the Home Member and the Hon'ble the Law Member, it is clear that there is no chance of this motion being adopted by the Council. In spite of this, however, I would like to say a word, by way of appeal, to the Government to ask them to reconsider their position even at this last moment and let the Bill proceed to the proposed Select Committee. It is quite true that a very large majority of our countrymen are strongly against this Bill. At the same time even the strongest opponent of the Bill cannot deny that there is a very influential and enlightened minority in support of the Bill. That being so, I think it is due to the supporters of this Bill, to their position in the country and to the interests of Indian progress which they represent, that the Government should allow the Bill to be examined by a Select Committee; because it is only a Select Committee that can properly examine a measure of this kind. Personally, Sir, I am strongly in favour of the Bill. It is quite true, as we have seen from opinions expressed both in this Council and outside, that the Bill represents ideas which are in advance of the views of the bulk of the Hindu and Muhammadan communities to-day; but I am quite sure that with the spread of higher education among Indian women, with late marriages coming more and more into vogue — and late marriages must lead to choice marriages, *i.e.*, to free choice by the marrying parties—with these things coming, with the dignity of individual freedom realised better and better, and last, but not least, with the steady fusion of different creeds and different races, which is bound to take place under the stress of our growing nationality, to which my Hon'ble friend Mr. Ali Imam referred—a reference which seems to have been misunderstood by my Hon'ble friend Mr. Mudholkar — I say, under all these influences, the day cannot be far distant when a measure like the one before us will find its way to the Statute-book. And, Sir, when that day comes, the labours of my Hon'ble friend will



be duly recognised. For the present, however, we must admit that owing to the apprehensions of orthodox people that have been aroused, and the attitude which the Government have adopted in this matter, the passing of this Bill becomes practically an impossibility. But that does not mean that the opportunity which has now arisen to examine the question of amending the law of 1872 need be thrown away altogether. Sir, there is a strong feeling in some quarters that this opportunity may be utilised at least to give relief to certain sections of the Indian community—certain denominations—who have a real and reasonable grievance under the existing law, without wounding the susceptibilities of other sections. To mention only one suggestion out of several, if the Bill were so amended that, instead of omitting the present negative declaration of the Act of 1872, that declaration was retained with an *alternative* positive declaration added, saying that a person belonged to one of the Churches enumerated, that, I think, would meet the requirements of the Brahmo community and I do not think that there would be any objection to this on the part of even the most orthodox people. Under such a provision, a person would be able to come under the Act either by declaring that he or she did not profess this, that, or a third faith, *or* by saying that he or she was a member of this or that Samaj or Church. I gather from what the Hon'ble Maharaja of Burdwan and the Hon'ble Mr. Malaviya said to-day that they would have no objection to such an amendment. If the Select Committee is disposed to examine the question in this spirit and find some such way out of the difficulty, I do not see why that should not be allowed by the Council. I do not see, Sir, why the whole of the Bill should be lost altogether—why we should not try to save as much of it as we can.

“ One more thing. My Hon'ble friend has proposed a Select Committee on which official Members are in a majority. The question will therefore remain under the control of the Government even in Select Committee. If my Hon'ble friend the mover of the Bill takes at any stage a line in the Committee which the Government are unable to approve, they can prevent a favourable report being made to the Council, and even at the last moment they can throw out the Bill in Council. I would therefore make a strong appeal to the Government to reconsider their decision and allow this Bill to go to the Select Committee. ”

The Council adjourned to Friday, the 27th February 1912.

W. H. VINCENT,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA :

*The 8th March 1912.*

## APPENDIX No. 1.

*Statement showing, year by year, the number of marriages registered under Act III of 1872.*

Year.	Province,	No. of marriages,
1872 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
1873 . . . . .	Nil.	
1874 . . . . .	Bengal . . . . .	4
1875 . . . . .	Bengal . . . . .	4
1876 . . . . .	Bengal . . . . .	
1877 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	13
1878 . . . . .	Bengal . . . . .	8
1879 . . . . .	Bengal . . . . .	8
1880 . . . . .	Bengal . . . . .	6
1881 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	10
1882 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	8
1883 . . . . .	Bengal . . . . .	10
1884 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	17
1885 . . . . .	Bengal . . . . .	12
	Punjab . . . . .	3
1886 . . . . .	Bombay . . . . .	3
	Bengal . . . . .	15
1887 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	18
	Punjab . . . . .	1
1888 . . . . .	Bombay . . . . .	2
	Bengal . . . . .	10
	Punjab . . . . .	1
1889 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	12
1890 . . . . .	Bengal . . . . .	24
	Punjab . . . . .	1
1891 . . . . .	Bengal . . . . .	16
1892 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	26
1893 . . . . .	Bombay . . . . .	1
	Bengal . . . . .	32
	Punjab . . . . .	1
1894 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	32



Statement showing, year by year, the number of marriages registered under Act III of 1872—contd.

Year.	Province.	No. of marriages.
1895 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	28
	Punjab . . . . .	1
1896 . . . . .	Bombay . . . . .	3
	Bengal . . . . .	19
1897 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	21
	Punjab . . . . .	1
1898 . . . . .	Madras . . . . .	1
	Bengal . . . . .	44
	Punjab . . . . .	2
1899 . . . . .	Madras . . . . .	1
	Bombay . . . . .	1
	Bengal . . . . .	20
	Punjab . . . . .	1
1900 . . . . .	Bengal . . . . .	36
1901 . . . . .	Bombay . . . . .	3
	Bengal . . . . .	24
1902 . . . . .	Madras . . . . .	1
	Bombay . . . . .	2
	Bengal . . . . .	34
	Punjab . . . . .	1
1903 . . . . .	Bombay . . . . .	2
	Bengal . . . . .	43
	Punjab . . . . .	1
1904 . . . . .	Madras . . . . .	12
	Bombay . . . . .	2
	Bengal . . . . .	33
1905 . . . . .	Madras . . . . .	9
	Bombay . . . . .	2
	Bengal . . . . .	36
	Punjab . . . . .	2
	Burma . . . . .	1
1899-1905 . . . . .	Assam . . . . .	6
1906 . . . . .	Madras . . . . .	4
	Bombay . . . . .	1
	Bengal . . . . .	32
	Punjab . . . . .	1
	Eastern Bengal and Assam . . . . .	10
1907 . . . . .	Madras . . . . .	4
	Bombay . . . . .	4
	Bengal . . . . .	39
	Punjab . . . . .	1
	Eastern Bengal and Assam . . . . .	7
1908 . . . . .	Madras . . . . .	5
	Bombay . . . . .	4
	Bengal . . . . .	41
	Punjab . . . . .	1
	Eastern Bengal and Assam . . . . .	6

Statement showing, year by year, the number of marriages registered under Act III of 1872—concl'd.

Year.	Province.	No. of marriages.
1909	Madras . . . . .	2
	Bombay . . . . .	4
	Bengal . . . . .	27
	Burma . . . . .	1
	Eastern Bengal and Assam . . . . .	14
1910	Madras . . . . .	6
	Bombay . . . . .	3
	Bengal . . . . .	21
	Eastern Bengal and Assam . . . . .	13
1911	Madras . . . . .	3
	Bombay . . . . .	2
	Bengal . . . . .	31
	United Provinces . . . . .	1
	Punjab . . . . .	1
	Eastern Bengal and Assam . . . . .	10
	Central Provinces . . . . .	1
Total	Madras . . . . .	54
	Bombay . . . . .	50
	Bengal . . . . .	820
	United Provinces . . . . .	1
	Punjab . . . . .	20
	Burma . . . . .	2
	Eastern Bengal and Assam . . . . .	66
	Central Provinces . . . . .	1
	North-West Frontier Province . . . . .	...
	Coorg . . . . .	...
		1014=2028 persons.



## APPENDIX No. 2.

A.

Statement showing the number of Hospitals and Dispensaries in British India during 1910.

Class of dispensaries.	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces and Berar.	Coorg.	North-West Frontier Province.	Total.
I. State—Public . . .	14	49	30	3	1	77	35	2	2	14	227
II. State—Special . . .	51	24	49	70	106	45	52	29	...	26	452
III. Local Fund . . .	467	268	279	330	263	97	281	159	6	32	2,132
IV. Private aided . . .	25	10	57	49	36	13	44	6	...	4	244
V. Private non-aided . . .	36	301	128	46	13	1	87	52	2	4	670
VI. Railway . . .	44	46	65	56	45	26	35	36	...	...	353
Total . . .	637	698	608	554	464	259	534	284	10	80	4,128

## B.

Statement showing the number of in-door and out-door patients treated in hospitals and dispensaries during the years 1908, 1909 and 1910.

Province.	1908.		1909.		1910.		REMARKS.
	In-door.	Out-door.	In-door.	Out-door.	In-door.	Out-door.	
Madras . . . . .	85,709	5,671,744	89,399	5,878,188	94,010	6,472,872	
Bombay . . . . .	73,951*	4,221,308*	72,157*	4,255,055*	72,836*	4,159,984*	* Figures for Persian Gulf not included.
Bengal . . . . .	91,835	4,263,436	96,030	4,730,755	95,453	4,701,871	
United Provinces . . . . .	104,398	5,195,043	104,877	5,506,211	95,547	5,093,457	
Punjab . . . . .	82,004	5,065,753	86,132	4,949,042	82,689	4,746,487	
Burma . . . . .	63,499	1,257,430	67,748	1,352,725	69,268	1,481,448	
Eastern Bengal and Assam . . . . .	37,357	4,013,793	36,723	4,196,315	34,467	4,337,600	
Central Provinces and Berar . . . . .	19,015	2,160,310	19,230	2,225,027	20,060	2,248,423	
Coorg . . . . .	1,830	60,969	2,172	64,948	2,485	77,609	
North-West Frontier Province . . . . .	19,443	816,787	20,629	884,639	20,416	964,524	
TOTAL	579,041	32,726,573	595,087	34,042,905	587,231	34,384,275	
	33,305,614		34,637,992		34,871,506		



## C.

*Statement showing the number of deaths from the undermentioned diseases, in British India, during the triennial period 1908—1910.*

Disease.	1908.	1909.	1910.
Small-pox . . . . .	170,694	101,152	51,315
Fevers . . . . .	5,424,372	4,487,492	4,341,392
Cholera . . . . .	591,725	239,231	430,451
Plague . . . . .	113,888	145,333	413,355
TOTAL . . . . .	6,300,679	4,973,208	5,236,513

## D.

*Statement showing the approximate number of Medical Practitioners in British India.*

Class of Practitioners.	Number.	REMARKS.
Officers, R. A. M. C. . . . .	326	
„ I. M. S., Military . . . . .	272	
„ „ Civil . . . . .	465	
Military Assistant Surgeons . . . . .	659	
Military Sub-Assistant Surgeons . . . . .	864	
Civil Assistant Surgeons . . . . .	780	62 of these are designated Civil Apothecaries.
Civil Sub-Assistant Surgeons . . . . .	3,647	
Private Practitioners, Europeans . . . . .	271	
„ „ Indians . . . . .	1,500	
TOTAL . . . . .	8,784	

## APPENDIX No. 3.

Statement showing the number of officers appointed in India and brought out from England and appointed to higher police appointments in each province.

Statement showing the number of officers appointed in India and brought out from England and appointed to higher police appointments in each province.													
1 Province.	2 NUMBER OF OFFICERS APPOINTED IN INDIA TO HIGHER POLICE APPOINTMENTS IN EACH PROVINCE.						3 NUMBER OF OFFICERS BROUGHT OUT FROM ENGLAND AND APPOINTED TO HIGHER POLICE APPOINTMENTS IN EACH PROVINCE.						4 Proportion of column 2 to column 3.
	1907	1908	1909	1910	1911	Total.	1907	1908	1909	1910	1911	Total.	
Madras . . . . .	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	5	5	5	4	4	23	None appointed.
Bombay . . . . .	Nil.	2	Nil.	1	Nil.	3	4	4	3	2	2	16	18·7 per cent.
Bengal . . . . .	1	Nil.	5	1	Nil.	7	6	6	6	6	6	30	23·3 per cent.
United Provinces . . . . .	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	7	4	5	4	4	24	None appointed.
Punjab . . . . .	Nil.	Nil.	Nil.	1	Nil.	1	5	6	6	4	4	27	3·7 per cent.
Burma . . . . .	2	1	Nil.	Nil.	Nil.	3	5	5	6	5	5	26	11·5 per cent.
Eastern Bengal and Assam . . . . .	2	1	2	6	Nil.	11	4	3	4	4	4	19	57·9 per cent.
Central Provinces . . . . .	Nil.	Nil.	1	Nil.	Nil.	1	3	3	4	3	3	16	6·2 per cent.
						26						181	14·3 per cent.



## APPENDIX No. 4.

*Statement relating to Munsifs in Bengal, the United Provinces and the Punjab.*

Province.	Total number of posts.	Minimum pay on confirmation.	Maximum pay.	Number of Munsifs appointed direct from the ranks of the legal profession exclusive of those who have been selected by competitive examination.
		Rs. *	Rs.	
Bengal . . . . .	170	200	400	170
United Provinces . . . . .	129	200	400	120
Punjab . . . . .	90	175	250	<i>Nil.</i>

## APPENDIX No. 5.

Statement of publications proscribed in each province under the Indian Press Act, 1910.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet)	1. Ca Ira (a pamphlet).
2. India, dated 12th February 1910 (newspaper of Pondicherry)	.....	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	.....	2. India, dated 12th February 1910 (newspaper of Pondicherry).	.....	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).
3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry)	.....	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	.....	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	.....	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).
4. Indian War of Independence (a book by V. D. Savarkar).	2. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	2. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	2. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).
5. Talvar, or Shamsheer (a newspaper).	3. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	3. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	3. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).
6. Chooze, Oh, Indian Princes! (a pamphlet).	4. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	4. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	4. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).
7. Bande Mataram of Geneva (10th September and 10th October 1909).	.....	.....	.....	.....	7. Bande Mataram of Berlin (10th September and 10th October 1909).	5. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Geneva (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).
.....	5. Hind Swarajya (a Gujarati book by M. K. Gandhi).	7. Hind Swarajya (a Gujarati book by M. K. Gandhi).	7. Hind Swarajya (a Gujarati book by M. K. Gandhi).	.....	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	.....	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).
.....	6. Universal Dawn (a book).	8. Universal Dawn (a book).	.....	.....	9. Universal Dawn (a book).	.....	9. Universal Dawn (a book).	9. Universal Dawn (a book).	9. Universal Dawn (a book).
.....	7. Mustafa Kamil Pasha's speech (a book).	9. Mustafa Kamil Pasha's speech (a book).	.....	.....	10. Mustafa Kamil Pasha's speech (a book).	.....	10. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).



## Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	8. The Defence of Socrates: Story of a true warrior (a book).	10. The Defence of Socrates: Story of a true warrior (a book).	.....	.....	11. The Defence of Socrates: Story of a true warrior (a book).	.....	11. The Defence of Socrates: Story of a true warrior (a book).	11. The Defence of Socrates: Story of a true warrior (a book).	
.....	9. A photograph entitled "Vande Mataram."	11. A photograph entitled "Vande Mataram."	.....	.....	12. A photograph entitled "Vande Mataram."	.....	12. A photograph entitled "Vande Mataram."	12. A photograph entitled "Vande Mataram."	
.....	10. A photograph entitled "Aryamata."	12. A photograph entitled "Aryamata."	8. A photograph entitled "Aryamata."	.....	13. A photograph entitled "Aryamata."	.....	13. A photograph entitled "Aryamata."	13. A photograph entitled "Aryamata."	
.....	11. Gaelic American (a newspaper).	13. Gaelic American (a newspaper).	.....	5. Gaelic American (a newspaper).	14. Gaelic American (a newspaper).	6. Gaelic American (a newspaper).	14. Gaelic American (a newspaper).	14. Gaelic American (a newspaper).	
8. Indian Sociologist (a newspaper).	12. Indian Sociologist (a newspaper).	14. Indian Sociologist (a newspaper).	.....	6. Indian Sociologist (a newspaper).	15. Indian Sociologist (a newspaper).	7. Indian Sociologist (a newspaper).	15. Indian Sociologist (a newspaper).	15. Indian Sociologist (a newspaper).	
.....	13. Justice (a newspaper).	15. Justice (a newspaper).	.....	7. Justice (a newspaper).	16. Justice (a newspaper).	8. Justice (a newspaper).	16. Justice (a newspaper).	16. Justice (a newspaper).	
.....	14. Bande Mataram (a newspaper of Geneva).	16. Bande Mataram (a newspaper of Geneva).	9. Bande Mataram (a newspaper of Geneva).	8. Bande Mataram (a newspaper of Geneva).	17. Bande Mataram (a newspaper of Geneva).	9. Bande Mataram (a newspaper of Geneva).	17. Bande Mataram (a newspaper of Geneva).	17. Bande Mataram (a newspaper of Geneva).	
.....	15. Satsang (a pamphlet published in Goa).	17. Satsang (a pamphlet published in Goa).	.....	9. Satsang (a pamphlet published in Goa).	18. Satsang (a pamphlet published in Goa).	10. Satsang (a pamphlet published in Goa).	18. Satsang (a pamphlet published in Goa).	18. Satsang (a pamphlet published in Goa).	
.....	16. Svaraj (a magazine).	18. Svaraj (a magazine).	10. Svaraj (a magazine).	10. Svaraj (a magazine).	19. Svaraj (a magazine).	11. Svaraj (a magazine).	19. Svaraj (a magazine).	19. Svaraj (a magazine).	
.....	17. Circular of Freedom (a newspaper).	19. Circular of Freedom (a newspaper).	.....	11. Circular of Freedom (a newspaper).	20. Circular of Freedom (a newspaper).	12. Circular of Freedom (a newspaper).	20. Circular of Freedom (a newspaper).	20. Circular of Freedom (a newspaper).	
9. Free Hindustan (a newspaper).	18. Free Hindustan (a newspaper).	20. Free Hindustan (a newspaper).	.....	12. Free Hindustan (a newspaper).	21. Free Hindustan (a newspaper).	13. Free Hindustan (a newspaper).	21. Free Hindustan (a newspaper).	21. Free Hindustan (a newspaper).	
.....	19. Khalsa or Khalsa (pamphlets).	21. Khalsa or Khalsa (pamphlets).	.....	13. Khalsa or Khalsa (pamphlets).	22. Khalsa or Khalsa (pamphlets).	14. Khalsa or Khalsa (pamphlets).	22. Khalsa or Khalsa (pamphlets).	22. Khalsa or Khalsa (pamphlets).	
.....	20. Jugantar (a Bengali leaflet).	22. Jugantar (a Bengali leaflet).	.....	14. Jugantar (a Bengali leaflet).	23. Jugantar (a Bengali leaflet).	15. Jugantar (a Bengali leaflet).	23. Jugantar (a Bengali leaflet).	23. Jugantar (a Bengali leaflet).	

.....	21. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	.....	15. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.
.....	22. Mazzini's Autobiography by V. D. Savarkar.	.....	.....	25. Mazzini's Autobiography by V. D. Savarkar.	25. Mazzini's Autobiography by V. D. Savarkar.	25. Mazzini's Autobiography by V. D. Savarkar.
.....	23. Raudasibua (a pamphlet).	.....	.....	26. Raudasibua (a pamphlet).	26. Raudasibua (a pamphlet).	26. Raudasibua (a pamphlet).
.....	24. Mela songs by G. D. Savarkar (a pamphlet).	.....	.....	27. Mela songs by G. D. Savarkar (a pamphlet).	27. Mela songs by G. D. Savarkar.	27. Mela songs by G. D. Savarkar.
.....	25. Bande Mataram (a leaflet).	.....	.....	28. Bande Mataram (a leaflet).	28. Bande Mataram (a leaflet).	.....
.....	26. Speeches of Tilak and Paranjpe by D. S. Valve (a pamphlet).	.....	.....	29. Speeches of Tilak and Paranjpe by D. S. Valve.	29. Speeches of Tilak and Paranjpe by D. S. Valve.	29. Speeches of Tilak and Paranjpe by D. S. Valve.
.....	27. Swadeshi Hal Chal ya Mubab Vatan Srijat Tilak ja Raya (a Sindhi-Arabic book).	.....	.....	30. Swadeshi Hal Chal ya Mubab Vatan, Srijat Tilak ja Raya (a Sindhi-Arabic book).	30. Swadeshi Hal Chal ya Mubab Vatan, Srijat Tilak ja Raya (a Sindhi-Arabic book).	30. Swadeshi Hal Chal ya Mubab Vatan, Srijat Tilak ja Raya (a Sindhi-Arabic book).
.....	28. Vijaya Torana (a play).	.....	.....	31. Vijaya Torana (a play).	31. Vijaya Torana (a play).	31. Vijaya Torana (a play).
.....	29. Kichak Vadh (a play).	.....	.....	32. Kichak Vadh (a play).	32. Kichak Vadh (a play).	32. Kichak Vadh (a play).
.....	30. Sri Krishna Shishu-thai (a play).	.....	.....	33. Sri Krishna Shishu-thai (a play).	33. Sri Krishna Shishu-thai (a play).	33. Sri Krishna Shishu-thai (a play).
10. O Martyrs (a leaflet)	31. O Martyrs (a leaflet).	.....	.....	34. O Martyrs (a leaflet).	34. O Martyrs (a leaflet).	34. O Martyrs (a leaflet).
.....	32. "Challenge statement" (a leaflet).	.....	.....	35. "Challenge statement" (a leaflet).	35. "Challenge statement" (a leaflet).	35. "Challenge statement" (a leaflet).
.....	33. Any volume of Chiplunkar's Niband-mala containing the essay "The state of our country."	.....	.....	36. Any volume of Chiplunkar's Niband-mala containing the essay "The state of our country."	36. Any volume of Chiplunkar's Niband-mala containing the essay "The state of our country."	36. Any volume of Chiplunkar's Niband-mala containing the essay "The state of our country."
.....	34. "Story of my Deportation," by L. B. Bhopatkar (a pamphlet).	.....	.....	37. "Story of my Deportation," by L. B. Bhopatkar (a pamphlet).	37. "Story of my Deportation," by L. B. Bhopatkar (a pamphlet).	37. "Story of my Deportation," by L. B. Bhopatkar (a pamphlet).



## Statement of publications proscribed in each province under the Indian Press Act 1910—contd.

1	2	3	4	5	6	7	8	9	10
	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	35. Photographs of Nationalists by S. D. Mohansingh.	.....	.....	.....	37. Photographs of Nationalists by S. D. Mohansingh.	.....	38. Photographs of Nationalists by S. D. Mohansingh.	37. Photographs of Nationalists by S. D. Mohansingh.	
.....	36. "Humanity Love Fund" (a leaflet).	.....	.....	.....	38. "Humanity Love Fund" (a leaflet).	.....	39. "Humanity Love Fund" (a leaflet).	38. "Humanity Love Fund" (a leaflet).	
.....	37. "Pictorial India of To-day" by H. R. Bhagvat.	.....	.....	.....	39. "Pictorial India of To-day" by H. R. Bhagvat.	.....	40. "Pictorial India of To-day" by H. R. Bhagvat.	39. "Pictorial India of To-day" by H. R. Bhagvat.	
.....	38. Tilak's speeches by H. R. Bhagvat.	.....	...	.....	40. Tilak's speeches by H. R. Bhagvat.	.....	41. Tilak's speeches by H. R. Bhagvat.	40. Tilak's speeches by H. R. Bhagvat.	
.....	.....	24. Om Bande Mataram (a leaflet).	11. Om Bande Mataram (a leaflet).	...	41. Om Bande Mataram (a leaflet).	..	42. Om Bande Mataram (a leaflet).	41. Om Bande Mataram (a leaflet).	
.....	.....	25. Sophia Begum (a book).	.....	.....	42. Sophia Begum (a book).	17. Sophia Begum (a book).	43. Sophia Begum (a book).	42. Sophia Begum (a book).	
.....	.....	26. Sipahi Juddher Itihas (a book).	.....	.....	43. Sipahi Juddher Itihas (a book).	18. Sipahi Juddher Itihas (a book).	44. Sipahi Juddher Itihas (a book).	43. Sipahi Juddher Itihas (a book).	
.....	.....	27. Asha Kulkarni (a book).	.....	...	44. Asha Kulkarni (a book).	19. Asha Kulkarni (a book).	45. Asha Kulkarni (a book).	44. Asha Kulkarni (a book).	
.....	.....	28. Jugantar Jai Bande Mataram (a leaflet).	.....	.....	45. Jugantar Jai Bande Mataram (a leaflet).	20. Jugantar Jai Bande Mataram (a leaflet).	46. Jugantar Jai Bande Mataram (a leaflet).	45. Jugantar Jai Bande Mataram (a leaflet).	
.....	.....	29. Marna bhala hai (a Gurmukhi leaflet).	.....	16. Marna bhala hai (a Gurmukhi leaflet).	46. Marna bhala hai (a Gurmukhi leaflet).	.....	47. Marna bhala hai (a Gurmukhi leaflet).	46. Marna bhala hai (a Gurmukhi leaflet).	
.....	.....	30. Bartaman Ramaniti (a book).	.....	.....	47. Bartaman Ramaniti (a book).	21. Bartaman Ramaniti (a book).	48. Bartaman Ramaniti (a book).	47. Bartaman Ramaniti (a book).	
.....	.....	.....	12. Swadhin Bharat.	.....	48. Swadhin Bharat (a pamphlet).	22. Swadhin Bharat (a pamphlet). Three issues.	49. Swadhin Bharat (a pamphlet). Two issues.	48. Swadhin Bharat (a pamphlet).	
.....	.....	.....	13. The Liberator (newspaper).	.....	.....	23. The Liberator (a newspaper).	50. The Liberator (a newspaper).	49. The Liberator (a newspaper).	
.....	.....	31. Hatya noy Jagna (a leaflet).	14. Hatya noy Jagna (a leaflet).	.....	49. Hatya noy Jagna (a leaflet).	.....	51. Hatya noy Jagna (a leaflet).	50. Hatya noy Jagna (a leaflet).	





## Statement of publications proscribed in each province under the Indian Press Act, 1910.—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	.....	42. "Holo ki" (a Bengali book).	.....	.....	61. "Holo ki" (a Bengali book).	33. "Holo ki" (a Bengali book).	65. "Holo ki" (a Bengali book).	63. "Holo ki" (a Bengali book).	.....
19. Jugantar (of Delhi) of 1st Magh 1316.	.....	.....	.....	.....	.....	34. Jugantar (of Delhi) of 1st Magh 1316.	66. Jugantar (of Delhi) of 1st Magh 1316.	.....	.....
.....	48. "Victory of Tilak" (a Marathi book).	.....	.....	.....	62. "Victory of Tilak" (a Marathi book).	.....	67. "Victory of Tilak" (a Marathi book).	.....	.....
.....	44. "Navin Tilakancha Povada" (a Marathi pamphlet).	.....	.....	.....	63. Navin Tilakancha Povada (a Marathi pamphlet).	.....	68. Navin Tilakancha Povada (a Marathi pamphlet).	.....	.....
.....	45. "Tilak Git" (a Marathi pamphlet).	.....	.....	.....	64. "Tilak Git" (a Marathi pamphlet).	.....	69. "Tilak Git" (a Marathi pamphlet).	.....	.....
.....	46. Gujarati translation of B. C. Pal's speeches.	.....	.....	.....	65. Gujarati translation of B. C. Pal's speeches.	.....	70. Gujarati translation of B. C. Pal's speeches.	.....	.....
.....	47. "Drauni Mani Haran" (a Marathi play).	.....	.....	.....	66. "Drauni Mani Haran" (a Marathi play).	.....	71. "Drauni Mani Haran" (a Marathi play).	.....	.....
.....	48. Picture by Sridhar Waman Nagarkar.	.....	23. Picture by Sridhar Waman Nagarkar.	.....	.....	35. Picture by Sridhar Waman Nagarkar.	72. Two pictures by Sridhar Waman Nagarkar.	64. Picture by Sridhar Waman Nagarkar.	.....
.....	.....	43. "Jugantar, fourth year 1317" (a leaflet).	.....	.....	67. "Jugantar, fourth year 1317" (a leaflet).	36. "Jugantar, fourth year 1317" (a leaflet).	73. "Jugantar, fourth year 1317" (a leaflet).	65. "Jugantar, fourth year 1317" (a leaflet).	.....
.....	49. The Indian National Songs (a book).	.....	.....	.....	68. The Indian National Songs (a book).	37. The Indian National Songs (a book).	74. The Indian National Songs (a book).	66. The Indian National Songs (a book).	.....
.....	50. Barisalchi Dham dhun (a play).	.....	.....	.....	69. Barisalchi Dham dhun (a play).	.....	75. Barisalchi Dham dhun (a play).	.....	.....
.....	51. Vang Vadh (a play).	.....	.....	.....	70. Vang Vadh (a play).	.....	76. Vang Vadh (a play).	.....	.....
.....	52. "Jailman Kavya" (a Gujarati book).	.....	.....	.....	71. "Jailman Kavya" (a Gujarati book).	.....	77. "Jailman Kavya" (a Gujarati book).	.....	.....
.....	53. "Indian Home Rule" (a book in English by M. K. Gandhi).	.....	.....	.....	72. "Indian Home Rule" (a book in English by M. K. Gandhi).	38. "Indian Home Rule" (a book in English by M. K. Gandhi).	78. "Indian Home Rule" (a book in English by M. K. Gandhi).	67. "Indian Home Rule" (a book in English by M. K. Gandhi).	.....



[illegible]

Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Barma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	.....	.....	27. Wataniyati (a book of poems in Arabic).	.....	88. Wataniyati (a book of poems in Arabic).	.....	.....	78. Wataniyati (a book of poems in Arabic).	.....
.....	.....	.....	.....	.....	89. "Maro Feringhi ko."	.....	94. "Maro Feringhi ko"	79. "Maro Feringhi ko"	.....
.....	.....	.....	.....	19. "Imanat men Khiyanat" (a book in Urdu).	90. "Imanat men Khiyanat" (a book in Urdu).	.....	95. "Imanat men Khiyanat" (a book in Urdu).	80. Imamat men Khiyanat (a book in Urdu).	.....
.....	.....	.....	.....	20. Baghi Masih (an Urdu pamphlet).	91. Baghi Masih (an Urdu pamphlet).	.....	96. Baghi Masih (an Urdu pamphlet).	81. Baghi Masih (an Urdu pamphlet).	.....
.....	.....	.....	.....	21. Desi Fauj Zafar Maj (an Urdu book).	92. Desi Fauj Zafar Maj (an Urdu book).	.....	97. Desi Fauj Zafar Maj (an Urdu book).	82. Desi Fauj Zafar Maj (an Urdu book).	.....
.....	.....	.....	.....	22. Infamies of Liberal Rule in India (a pamphlet).	93. Justice (of the 27th August 1910).	51. Justice (of the 25th August 1910).	98. Justice (of the 25th August 1910).	.....	.....
.....	.....	.....	.....	23. Infamies of Liberal Rule in India (a pamphlet).	94. Infamies of Liberal Rule in India (a pamphlet).	52. Infamies of Liberal Rule in India (a pamphlet).	99. Infamies of Liberal Rule in India (a pamphlet).	83. Infamies of Liberal Rule in India (a pamphlet).	3. Infamies of Liberal Rule in India (a pamphlet).
.....	.....	.....	.....	.....	95. Bande Mataram of June 1910 (a newspaper written in English).	.....	.....	.....	.....
.....	69. Yadukul no Itilas (Gujarati book).	.....	.....	.....	96. Yadukul no Itilas (a Gujarati book).	.....	100. Yadukul no Itilas (a Gujarati book).	.....	.....
.....	60. Shrinivasrav (a Marathi book).	.....	.....	.....	97. Shrinivasrav (a Marathi book).	.....	101. Shrinivasrav (a Marathi book).	.....	.....
.....	61. Swadeshi Chalval (a Marathi play).	.....	.....	.....	98. Swadeshi Chalval (a Marathi play).	.....	102. Swadeshi Chalval (a Marathi play).	.....	.....
.....	.....	53. Desher Katha (a Bengali book).	.....	.....	99. Desher Katha (a Bengali book).	53. Desher Katha (a Bengali book).	103. Desher Katha (a Bengali book).	84. Desher Katha (a Bengali book).	.....
.....	.....	.....	.....	23. Hindustan men Angrezi hakumat (an Urdu pamphlet).	100. Hindustan men Angrezi hakumat (an Urdu pamphlet).	.....	104. Hindustan men Angrezi hakumat (an Urdu pamphlet).	85. Hindustan men Angrezi hakumat (an Urdu pamphlet).	.....
.....	.....	.....	.....	24. Sarkari Mulazimat (an Urdu pamphlet).	101. Sarkari Mulazimat (an Urdu pamphlet).	.....	105. Sarkari Mulazimat (an Urdu pamphlet).	86. Sarkari Mulazimat (an Urdu pamphlet).	.....
.....	.....	.....	.....	25. Political Hal Chal (an Urdu book).	102. Political Hal Chal (an Urdu book).	.....	106. Political Hal Chal (an Urdu book).	87. Political Hal Chal (an Urdu book).	.....
.....	.....	.....	.....	26. Divide and Conquer (an English pamphlet).	103. Divide and Conquer (an English pamphlet).	.....	107. Divide and Conquer (an English pamphlet).	88. Divide and Conquer (an English pamphlet).	.....
.....	.....	.....	.....	27. Bandar Bant (an Urdu book).	104. Bandar Bant (an Urdu book).	.....	108. Bandar Bant (an Urdu book).	89. Bandar Bant (an Urdu book).	.....
.....	.....	.....	.....	28. Quami Islah parts I and II (Urdu books).	105. Quami Islah, parts I and II (Urdu books).	.....	109. Quami Islah, parts I and II (Urdu books).	90. Quami Islah, parts I and II (Urdu books).	.....



[illegible]

Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	68. Kalantil Nivdak Nibhanda, Vol. VI (a Marathi pamphlet).	.....	.....	.....	119. Kalantil Nivdak Nibhanda, Vol. VI (a Marathi pamphlet).	.....	123. Kalantil Nivdak Nibhanda, Vol. VI (a Marathi pamphlet).	.....	.....
.....	69. Tilakanchen Alpa Charitra (a Marathi pamphlet).	.....	.....	.....	120. Tilakanchen Alpa Charitra (a Marathi pamphlet).	.....	124. Tilakanchen Alpa Charitra (a Marathi pamphlet).	.....	.....
.....	70. Aitihāsik Purushan-ache Utsav Kan Karave (a Marathi pamphlet).	.....	.....	.....	121. Aitihāsik Purushan-ache Utsav Kan Karave (a Marathi pamphlet).	.....	125. Aitihāsik Purushan-ache Utsav Kan Karave (a Marathi pamphlet).	.....	.....
.....	.....	.....	.....	.....	122. Mukti Mantra (a Bengali leaflet), 4th issue.	55. Mukti Mantra (a Bengali leaflet), 4th issue.	126. Mukti Mantra (a Bengali leaflet), 4th issue.	.....	.....
.....	.....	.....	30. Swadeshi Andolan aur baykat (a Hindi book).	.....	123. Swadeshi Andolan aur Baykat (a Hindi book).	57. Swadeshi Andolan aur Baykat (a Hindi book).	127. Swadeshi Andolan aur Baykat (a Hindi book).	95. Swadeshi Andolan aur Baykat (a Hindi book).	.....
.....	71. Vipin Vyakhyan Mala—a Hindi translation of B. C. Pal's speeches.	.....	.....	.....	124. Vipin Vyakhyan Mala—a Hindi translation of B. C. Pal's speeches.	.....	128. Vipin Vyakhyan Mala—a Hindi translation of B. C. Pal's speeches.	.....	.....
.....	72. Speeches delivered at Madras by B. C. Pal (a Marathi book).	.....	.....	.....	125. Speeches delivered at Madras by B. C. Pal (a Marathi book).	.....	129. Speeches delivered at Madras by B. C. Pal (a Marathi book).	.....	.....
.....	73. Speeches of Srijut B. C. Pal (an English book).	.....	.....	.....	126. Speeches of Srijut B. C. Pal (an English book).	.....	130. Speeches of Srijut B. C. Pal (an English book).	.....	.....
.....	.....	.....	.....	.....	127. Deb Samiti ba Suraloke Swadeshi Katha (a Bengali book).	58. Deb Samiti ba Suraloke Swadeshi Katha (a Bengali book).	131. Deb Samiti ba Suraloke Swadeshi Katha (a Bengali book).	.....	.....
.....	74. Vijayadurg (a Marathi book).	.....	.....	.....	128. Vijayadurg (a Marathi book).	.....	132. Vijayadurg (a Marathi book).	.....	.....
.....	75. Anandi-anand athwa Sumati-vijaya (a Marathi book).	.....	.....	.....	129. Anandi-anand athwa Sumati-vijaya (a Marathi book).	.....	133. Anandi-anand athwa Sumati-vijaya (a Marathi book).	.....	.....
.....	76. Swadeshi ani Bahishkar (a Marathi book).	.....	.....	.....	130. Swadeshi ani Bahishkar (a Marathi book).	.....	134. Swadeshi ani Bahishkar (a Marathi book).	.....	.....





## Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	93. Swadeshi Chalwal (a Marathi pamphlet).	.....	.....	.....	147. Swadeshi Chalwal (a Marathi pamphlet).	.....	152. Swadeshi Chalwal (a Marathi pamphlet).	.....	.....
.....	94. Pagans and Christians or the black spot in the East (an English Pamphlet).	.....	.....	.....	148. Pagans and Christians or the black spot in the East (an English pamphlet).	.....	153. Pagans and Christians or the black spot in the East (an English pamphlet).	.....	.....
.....	95. Lokamanya Tilaknan Bodh Vachano (a Gujarati book).	.....	.....	.....	149. Lokamanya Tilaknan Bodh Vachano (a Gujarati pamphlet).	.....	154. Lokamanya Tilaknan Bodh Vachano (a Gujarati pamphlet).	.....	.....
.....	96. Sanimatra Samaj Malyachi 1909 Salehi Pade (a Marathi book).	.....	.....	.....	150. Sanimatra Samaj Malyachi 1909 Salehi Pade (a Marathi pamphlet).	.....	155. Sanimatra Samaj Malyachi 1909 Salehi Pade (a Marathi pamphlet).	.....	.....
.....	97. Shrikrishna Paramatma ani Hindi Rastriya Paksha (a Marathi book).	.....	.....	.....	151. Shrikrishna Paramatma ani Hindi Rastriya Paksha (a Marathi pamphlet).	.....	156. Shrikrishna Paramatma ani Hindi Rastriya Paksha (a Marathi pamphlet).	.....	.....
.....	98. Lokamanyancha Nirop (a Marathi book).	.....	.....	.....	152. Lokamanyancha Nirop (a Marathi pamphlet).	.....	157. Lokamanyancha Nirop (a Marathi pamphlet).	.....	.....
.....	99. Bhalyachya Phenki, Parts I and II (a Marathi book).	.....	.....	.....	153. Bhalyachya Phenki, Parts I and II (a Marathi pamphlet).	.....	158. Bhalyachya Phenki, Parts I and II (a Marathi pamphlet).	.....	.....
.....	100. Pardesii Sakhar (a Marathi pamphlet).	.....	.....	.....	154. Pardesii Sakhar (a Marathi pamphlet).	.....	159. Pardesii Sakhar (a Marathi pamphlet).	.....	.....
.....	101. Shri Samarth Ramdas Swamiyanoba Powada (a Marathi pamphlet).	.....	.....	.....	155. Shri Samarth Ramdas Swamiyanoba Powada (a Marathi pamphlet).	.....	160. Shri Samarth Ramdas Swamiyanoba Powada (a Marathi pamphlet).	.....	.....
.....	102. Shri. Ganapatiya Melya Karitan Sanjit Padya-Kusum Mala, Bhag Pahila (a Marathi pamphlet).	.....	.....	.....	156. Shri. Ganapatiya Melya Karitan Sanjit Padya-Kusum Mala, Bhag Pahila (a Marathi pamphlet).	.....	161. Shri. Ganapatiya Melya Karitan Sanjit Padya-Kusum Mala, Bhag Pahila (a Marathi pamphlet).	.....	.....





Statement of publications provided in each province under the Indian Press Act, 1907—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
.....	110. Mulk Madh (a Marathi pamphlet).	.....	.....	.....	170. Mulk Madh (a Marathi pamphlet).	.....	.....	.....	.....
.....	111. Mumukshuche Udgat, parts I and II.	.....	.....	.....	171. Mumukshuche Udgat, parts I and II.	.....	175. Mumukshuche Udgat, parts I and II.	.....	.....
.....	112. Bharatodhar Bhajanamrit (a Gujarati book).	.....	.....	.....	172. Bharatodhar Bhajanamrit (a Gujarati book).	.....	176. Bharatodhar Bhajanamrit (a Gujarati book).	.....	.....
.....	113. Swadeshi Gita (a Gujarati poem).	.....	.....	.....	173. Swadeshi Gita (a Gujarati poem).	.....	177. Swadeshi Gita (a Gujarati poem).	.....	.....
.....	114. Bharat Rashtra Sangit (a Gujarati book).	.....	.....	.....	174. Bharat Rashtra Sangit (a Gujarati book).	.....	178. Bharat Rashtra Sangit (a Gujarati book).	.....	.....
.....	115. Kalantil Nidhak Nibandh, parts I, II, III, IV, V, VII, VIII, IX and X (Marathi books).	.....	.....	.....	176. Kalantil Nidhak Nibandh, parts I, II, III, IV, V, VII, VIII, IX and X (Marathi books).	.....	179. Kalantil Nidhak Nibandh, parts I, II, III, IV, V, VII, VIII, IX and X (Marathi books).	.....	.....
.....	116. Black Hole (a pamphlet).	.....	.....	.....	176. Black Hole (a pamphlet).	.....	180. Black Hole (a pamphlet).	.....	.....
.....	117. Ek Aitihasik Padarcharan-grahalya (a pamphlet).	.....	.....	.....	177. Ek Aitihasik Padarcharan-grahalya (a pamphlet).	.....	181. Ek Aitihasik Padarcharan-grahalya (a pamphlet).	.....	.....
18. Young India (Navena Hindustan) (a series of Telegu leaflets).	.....	.....	.....	.....	178. Young India (Navena Hindustan) (a series of Telegu leaflets).	.....	182. Young India (Navena Hindustan) (a series of Telegu leaflets).	.....	.....
.....	.....	.....	.....	.....	179. Chhatrapati Sivaji (a play).	59. Chhatrapati Sivaji (a play).	183. Chhatrapati Sivaji (a play).	.....	.....
.....	.....	.....	.....	.....	180. Durgasur (a play).	60. Durgasur (a play).	184. Durgasur (a play).	.....	.....
.....	.....	.....	.....	.....	181. Karnafal (a play).	61. Karnafal (a play).	185. Karnafal (a play).	.....	.....









1. Oath of Admission into the new Bharata Association (a Tamil pamphlet).	59. Gorn-o-Hindu Mussulman (a Bengali pamphlet).	206. Gorn-o-Hindu Mussulman (a Bengali pamphlet).	212. Gorn-o-Hindu Mussulman (a Bengali pamphlet).
2. A word of Advice to the Aryans (a Tamil pamphlet).	60. Sandhya, second edition, fourth year (a Bengali leaflet).	207. Oath of Admission into the new Bharata Association (a Tamil pamphlet).	213. Oath of Admission into the new Bharata Association (a Tamil pamphlet).
3. Nyayabhinani (a Tamil newspaper).	122. Maharana Pratapsingh (a Marathi play).	208. A word of Advice to the Aryans (a Tamil pamphlet).	214. A word of Advice to the Aryans (a Tamil pamphlet).
	123. A book variously entitled Kayadano Sangraha, Kisse Gulab, Kasrat, Ashatana, Nahavana Sabu and Navroz.	209. Sandhya, second edition, fourth year (a Bengali leaflet).	215. Sandhya, second edition, fourth year (a Bengali leaflet).
	124. The English Teacher, Parts I and II (a Hindi book).	210. Maharana Pratapsingh (a Marathi play).	216. Maharana Pratapsingh (a Marathi play).
	125. The New English Teacher, Parts I and II (a Marathi book).	211. A book variously entitled Kayadano Sangraha, Kisse Gulab, Kasrat, Ashatana, Nahavana Sabu and Navroz.	217. A book variously entitled Kayadano Sangraha, Kisse Gulab, Kasrat, Ashatana, Nahavana Sabu and Navroz.
	126. Swadeshi Paden, Bhag Pahila (a Marathi pamphlet).	212. The English Teacher, Parts I and II (a Hindi book).	218. The English Teacher, Parts I and II (a Hindi book).
	127. Garibaldi nun Jivancharit (a Gujarati book).	213. The New English Teacher, Parts I and II (a Marathi book).	219. The New English Teacher, Parts I and II (a Marathi book).
		214. Swadeshi Paden, Bhag Pahila (a Marathi pamphlet).	220. Swadeshi Paden, Bhag Pahila (a Marathi pamphlet).
		215. Om Bande Mataram Swadhin Bharat (a Bengali leaflet).	221. Om Bande Mataram Swadhin Bharat (a Bengali leaflet).
		216. Garibaldi nun Jivancharit (a Gujarati book).	222. Garibaldi nun Jivancharit (a Gujarati book).
		217. Kanayu (a poem).	223. Kanayu (a poem).

Statement of publications proscribed in each province under the Indian Press Act, 1910—concl'd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
24. Arilorpungu (a story).	.....	.....	.....	.....	218. Arilorpungu (a short story).	.....	224. Arilorpungu (a short story).	.....	.....
.....	.....	.....	.....	.. ..	219. Swadesh Prasanga (a Bengali leaflet).	74. Swadesh Prasanga (a Bengali leaflet).	225. Swadesh Prasanga (a Bengali leaflet).	.....	.....
.....	128. Ashtabhujia Devi (a picture).	.....	.....	33. Ashtabhujia Devi (a picture).	.....	.....	226. Ashtabhujia Devi (a picture).	.....	.....
.....	129. Deshabhakti Shikshan (a Marathi pamphlet).	.....	.....	.. ..	.....	.....	227. Deshabhakti Shikshan (a Marathi pamphlet).	.....	.....
.....	130. Sinhaagadeha Powada (a Marathi pamphlet) of the <i>Abhinav Bharat</i> Series.	.....	.....	.....	.....	.....	228. Sinhaagadeha Powada (a Marathi pamphlet) of the <i>Abhinav Bharat</i> Series.	.....	.....
.....	131. Sinhaagadeha Powada (a Marathi pamphlet) of the <i>Nasik Mitra Mela</i> Series.	.....	.....	.....	.....	.....	229. Sinhaagadeha Powada (a Marathi pamphlet) of the <i>Nasik Mitra Mela</i> Series.	.....	.....
.....	132. Shri Bajji Deshpande Yandha Powada (a Marathi pamphlet).	.....	.....	.. ..	.....	.....	230. Shri Bajji Deshpande Yandha Powada (a Marathi pamphlet).	.....	.....
.....	133. Vijapurcha Ad-dilshahia Shevat at-hava Shri Shivaraya Chhatrapatinchin Ad-bhut Karasthanen (a Marathi pamphlet).	.....	.....	.....	.....	.....	231. Vijapurcha Ad-dilshahia Shevat at-hava Shri Shivaraya Chhatrapatinchin Ad-bhut Karasthanen (a Marathi pamphlet).	.....	.....
.....	134. An open letter to Count Leo Tolstoy in reply to his "Letter to a Hindoo" (a pamphlet).	.....	.....	.....	.....	.....	232. An open letter to Count Leo Tolstoy in reply to his "Letter to a Hindoo" (a pamphlet).	.....	.....
.....	135. Manson Sahabnun khun athva Dakshin Hindustanno, i.s., 1887 no Baloo (a Gujarati pamphlet).	.....	.....	.....	220. Manson Sahabnun khun athva Dakshin Hindustanno, i.s., 1887 no Baloo (a Gujarati pamphlet).	.....	233. Manson Sahabnun khun athva Dakshin Hindustanno, i.s., 1887 no Baloo (a Gujarati pamphlet).	.....	.....
.....	136. Calcuttani kal Kordi (a Gujarati pamphlet).	.....	.....	.. ..	231. Calcuttani kal Kordi (a Gujarati leaflet).	.....	234. Calcuttani kal Kordi (a Gujarati leaflet).	.....	.....



137. Ganpatichya Melyanchin Paden, Bhag 2 (a Marathi pamphlet).	.....	.....	.....	222. Ganpatichya Melyanchin Paden, Bhag 2 (a Marathi pamphlet).	.....	235. Ganpatichya Melyanchin Paden, Bhag 2 (a Marathi pamphlet).	.....
138. Lokamanya Bal Gangadhar Tilak Yanyavil Rajadrobachha khatla 1908 (a Marathi pamphlet).	.....	.....	.....	223. Lokamanya Bal Gangadhar Tilak Yanyavil Rajadrobachha khatla 1908 (a Marathi pamphlet).	.....	236. Lokamanya Bal Gangadhar Tilak Yanyavil Rajadrobachha khatla 1908 (a Marathi pamphlet).	.....
139. Lekh-ratna-mala athya Nana Phadnavisaneche Patrancha Sangraha (a Marathi pamphlet).	.....	.....	.....	224. Lekh-ratna-mala athya Nana Phadnavisaneche Patrancha Sangraha (a Marathi pamphlet).	.....	237. Lekh-ratna-mala athya Nana Phadnavisaneche Patrancha Sangraha (a Marathi pamphlet).	.....
140. Afzul Khanache Vadharav Powada (a Marathi pamphlet).	.....	.....	.....	225. Swadhin Bharat, 9th edition (a Bengali leaflet).	75. Swadhin Bharat, 9th edition (a Bengali leaflet).	238. Swadhin Bharat, 9th edition (a Bengali leaflet).	.....
141. Swadeshi Paden, Bhag Dusara (a Marathi pamphlet).	.....	.....	.....	226. Afzul Khanache Vadharav Powada (a Marathi pamphlet).	.....	239. Afzul Khanache Vadharav Powada (a Marathi pamphlet).	.....
142. Panipatcha Moadla (a Marathi play).	.....	.....	.....	227. Swadeshi Paden, Bhag Dusara (a Marathi pamphlet).	.....	240. Swadeshi Paden, Bhag Dusara (a Marathi pamphlet).	.....
143. Match-boxes bearing the picture headed "Godless with eight hands."	.....	.....	.....	228. Bande Mataram. Do not fear (a Bengali leaflet).	.....	241. Bande Mataram. Do not fear (a Bengali leaflet).	.....
144. Sangit Lanka Vidhwansa Natak (a musical drama).	.....	.....	.....	229. Panipatcha Moadla (a Marathi play).	.....	242. Ashtabhuja Devi (a picture no. II).	.....
145. Prithviraj-Sanyogita Natak (a play).	.....	.....	.....	.....	.....	243. Panipatcha Moadla (a Marathi play).	.....
146. Basaweshwar play).	.....	.....	.....	.....	.....	244. Match-boxes bearing the picture headed "Godless with eight hands."	.....
	.....	.....	.....	.....	.....	245. Bande Mataram. Ma Bhai! Ma Bhai!!! Ma Bhai!!! Bhai Swadeshiya Chattriribinda (a Bengali leaflet).	.....
	.....	.....	.....	.....	.....	246. Sangit Lanka Vidhwansa Natak (a Musical Drama).	.....
	.....	.....	.....	.....	.....	247. Prithviraj-Sanyogita Natak (a play).	.....

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO 1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 27th February 1912.

PRESENT:

The Hon'ble SIR GUY FLEETWOOD WILSON, G.C.S.I., K.C.B., K.C.M.G., Vice President, *presiding*, and 55 Members, of whom 50 were Additional Members.

QUESTION PROCEDURE.

**The President :** "Before commencing the business of the day on the notice-paper, I would like to throw out a suggestion for the consideration of Hon'ble Members.

"About an hour was taken up yesterday in putting and answering questions. The number and importance of Bills and Resolutions submitted to this Council increase and will continue to increase every session.

"It has crossed my mind that Hon'ble Members might care to consider whether they might not adopt, in regard to questions, the formula which obtains in the English House of Commons, where a member, instead of reading out at length the question standing in his name, merely says :—'I beg to put question No. 26,' or whatever the number may be. And in the case of questions which are broken up into sub-questions, he would say :—'I beg to ask question No. 12 (a), (b), (c) and (d).'

"The questions and answers are all published, so that there would be no question of any information being withheld.

"I wish to say emphatically that there is no question of altering any rule, much less is there any question of my giving any ruling on the subject. I merely throw out the suggestion for the consideration of Members, thinking that some of them, at any rate, may see the advantage of the House of Commons formula.

"We will now proceed with the questions on the notice-paper for to-day."



## QUESTIONS AND ANSWERS.

**The Hon'ble Mr. Mudholkar asked :**

"Will Government be pleased to state what was the total value of the stores required for the purposes of the different Government Departments and the Railways owned by the State purchased (a) in India, (b) in Great Britain, (c) in other countries, during the years 1907-08, 1908-09, 1909-10 and 1910-11?"

**The Hon'ble Mr. Enthoven replied :**

"I place on the table a statement\* giving the available figures of the expenditure on stores procured by the Director-General of Stores for shipment to India and stores purchased in India for Government Departments and State Railways during the last four years. The Government of India are not in a position to state what proportion of the stores procured by the Director-General of Stores for shipment to India were purchased in countries other than Great Britain. It is necessary to explain that the figures are, for purposes of comparison, of little value, for the following reasons. The figures for stores procured by the Director-General of Stores for shipment to India include purchases for Local Funds and Native States. The Government of India have not readily at their disposal information enabling them to say how much should be deducted on this account. The figures for stores purchased in India do not include purchases for Local Funds and Native States, and are otherwise incomplete; they exclude—

- (a) purchases made under Rule 3 (a) of the Rules for the supply of articles for the Public Service, which may extend up to Rs. 3,000 for any one article or any number of articles of the same class purchased at one time;
- (b) purchases of articles which are invariably or by general usage purchased in India, *e.g.*, bricks, mortar, bamboos, etc.;
- (c) purchases of articles of any one kind or description of which the aggregate value in respect of each office or Department does not exceed Rs. 1,000 in a year.

"It would be impossible to give the complete figures for stores purchased in India without an amount of labour which the Government of India consider it unnecessary to undertake."

**The Hon'ble Mr. Mudholkar asked :**

"(a) Is it a fact that there was net loss to the State on Indian Railways from the commencement of their construction till the end of 1894-95? If so, was the amount of such loss over Rs. 5,184 lakhs?"

"(b) Will the Government be pleased to lay on the table a return showing the net gain or loss to the State during each year commencing from 1895-96 up to 1910-11?"

**The Hon'ble Sir T. R. Wynne replied :**

"(a) The reply is in the affirmative.

"(b) The information covering the period 1895-96 will be found in Section H of the several Finance and Revenue Accounts of the Government of India, copies of which are in the Additional Member's room.

"I would like to point out that the figures quoted in the first part of the question are calculated, if taken by themselves, to give an entirely misleading impression. They necessarily leave out of account the great development of Indian trade, agriculture, etc., attributable to the construction of Railways and the consequent increase in the Revenue to the State which there is every reason to think more than counterbalances the apparent loss."

\* *Vide* Appendix No. 1.

**The Hon'ble Raja of Dighapatia asked :**

"Will the Government be pleased to state if it is in contemplation to alter the Regulations for the election and nomination of members to the Bengal and Imperial Legislative Councils in view of the announcements made at Delhi, and, if so, is it intended to consult public bodies before their final promulgation?"

**The Hon'ble Sir Reginald Craddock replied :**

"It is obvious that when effect is given to the announcements made at Delhi affecting the existing Provinces of Bengal and Eastern Bengal and Assam, the present Regulations governing the constitution of the local Legislative Councils and the selection of members of the Imperial Legislative Council from these areas will require revision. The Government of India will await the proposals on the subject of the new Local Governments, and pending their receipt, it is impossible to say what procedure will be adopted in disposing of them."

**The Hon'ble Mr. Gokhale asked :**

"(a) Have the Government received any representations regarding the incidence of the annual licence of £3, demanded in Natal, since 1901, under Natal Act 17 of 1895, of all Indians—males, upwards of 16 years, and females, upwards of 13 years,—who, upon the expiry of their indentures, elect not to return to India or to re-indenture?"

"(b) Has the attention of the Government been drawn to the opinion expressed by certain Natal planters, as also by members of the Natal legislature in January 1910, that this tax has driven large numbers of Indian women in Natal to a life of shame, while many men have been compelled on its account either to take to crime or to desert their families?"

"(c) Have the Government noticed the evidence given by certain Natal planters before the Union Commission on Commerce and Industries in 1911, to the effect, that in consequence of the imposition of this tax, not more than 6 per cent. of the Indians, whose contracts were then expiring, could afford to remain free, the rest being forced to leave the Colony or to re-indenture?"

"(d) Will the Government be pleased to state what steps, if any, have been taken by them to procure relief in this matter?"

**The Hon'ble Mr. Enthoven replied :**

"The replies to the Hon'ble Member's questions are as follows :—

- (a) The answer to this question is in the affirmative.
- (b) The Government of India have not seen the opinions referred to in this question, but a reference to them has been made in one of the representations received by them.
- (c) Government have not yet received copies of the evidence taken before the Union Commission. They have, however, seen unofficial statements to the effect indicated in the question.
- (d) Correspondence is still in progress on this matter between the Secretary of State and the Government of India."

**The Hon'ble Mr. Sachchidananda Sinha asked :**

"Will the Government be pleased to state the result of their negotiations with the Government of Canada in regard to the disabilities imposed in that country on His Majesty's Indian subjects?"

**The Hon'ble Mr. Enthoven replied :**

"No further information has been received from the Secretary of State since the reply on the same subject which the Hon'ble Mr. Clark gave to the Hon'ble Member on the 22nd September last."



## SPECIAL MARRIAGE.

**The Hon'ble Raja of Dighapatia :** " Sir, in spite of the strong opposition that this Bill of Mr. Basu evoked from the stalwart champions of orthodoxy and the regrettable discouragement it received from the Government Bench yesterday, I feel I shall be wanting in my duty if I do not accord my full support to the measure, as I honestly believe it to be the first step towards the social unification of India.

" I am not convinced yet that a permissive measure of this kind is capable of revolutionising and injuring the best interests of Hindu society, and I am sure Mr. Basu—a Hindu himself—could not have brought this Bill before the Council if he thought it would materially harm Hindu cause, nor could I, Sir, in that case accord my support to it. So long as Hindu society retains full power of excommunication, I fail to see how it will be harmed if the parties, contracting marriages under this Act, stick to the religion of their forefathers and avoid declarations contrary to their convictions.

" If Hindu society wants to retain in its ranks men of advanced ideas, sooner or later it will have to countenance marriages under the present measure, and the sooner the society is prepared for it the better it will be for all concerned.

" Apart from all other considerations the question of the protection of the rights of the women of India against Bigamy and Polygamy and also against the inhuman treatment they receive at times (which the Hon'ble mover has already referred to) loudly calls for interference from the legislature.

" If the Government thought it fit in the past to remedy many a social evil when Society was not so much advanced, I fail to see why it should not step in now to redress the just grievances of the women of India, and at the same time recognise the rights of conscience of the advanced class. With these remarks I beg to support Mr. Basu's Bill, and hope the Government would be moved to allow its passage to the Select Committee if it be only to throw it out, after careful examination.

**The Hon'ble Mr. Syed Ali Imam :** " Sir, before I address the Council, I must seek your permission to permit me an opportunity to put in a few words in the way of explanation in respect of any misapprehension or misunderstanding that might have arisen in the minds of Hon'ble Members in regard to some parts of the submissions I made yesterday. Have I your permission, Sir ? "

**The President :** " Yes ; certainly. "

**The Hon'ble Mr. Syed Ali Imam :** " I think it right that I should place before Council my explanation in regard to a misunderstanding that has arisen in the mind of my esteemed friend, the Hon'ble Mr. Mudholkar. Mr. Gokhale yesterday truly understood the reference I made to ' nationalism,' but Mr. Mudholkar has not quite understood the reference that I made in my speech to ' nationalism.' That word might have acquired a bad odour in having been associated with certain aspects of political agitation that are of a reprehensible character. That of course was never for a moment present in my mind ; nor can it for a moment be suggested that the term ' nationalism ' has really been accepted to have that meaning in India, and I hope it will never have that meaning. I only referred to any thing that tends to the unification of the various classes here in my country. Any such step is a move in the right direction so long as it is consistent with the safety of those that have conserved and vested interests, and as such Mr. Mudholkar need have no apprehension whatsoever in regard to what was alluded to by me.

" There is one word of explanation that I think I should like to offer before Council, and that is in reference to what was urged by my Hon'ble friend Mr. Mazharul Haque. In his forcible speech yesterday he expressed some degree of surprise at my having opposed this Bill. I am not in a position to know what the circumstances were which produced that degree of surprise

which was expressed somewhat in an emphatic manner. But I know this much, that before I addressed the Council yesterday, one of my Colleagues, the Hon'ble Sir Reginald Craddock, had already definitely placed before Council the position of the Government, and I, as one of the Members of that Government, put forward the legal objections that struck me would be advanced against that Bill. In the circumstances, I felt some surprise myself that the Hon'ble Member thought that there was anything out of the way in the manner in which I approached this Bill. But at the same time, I would like, with the permission of the Council, to make a passing reference to a quotation that was put forward by the Hon'ble Member Mr. Haque, and the quotation was from a remark of the Right Hon'ble Mr. Ameer Ali, whose authority, and whose authority alone, the Hon'ble Member will accept however high placed any other jurist may be. I have before me the latest edition of his work on this subject, and I find that the principle of the law that I put forward yesterday has been most emphatically accepted by him, and even the quotation put forward by the Hon'ble Member itself is clearly in support of the view put forward by me and so far as the essence of the law is concerned, it has never been for a moment contested. Now referring to this subject, the Right Hon'ble Mr. Ameer Ali, after discussing the law at length of both the schools of Muhammadan law, the Shia law, and the Sunni law, comes to this conclusion, and I am quoting it from page 321 of his book. He says, referring to these schools, 'both schools prohibit a Moslem from marrying an idolatrous female or one who worshipped the stars or any kind of fetish whatsoever. Therefore on that point, there need be no apprehension as to what not only has been the established and considered opinion of all Muhammadan jurists, but is also correct on the high authority of the Right Hon'ble Gentleman whom we are all proud to have as a Member of the Privy Council.

"My Hon'ble friend, Mr. Jinnah, also put forward certain references in his speech in regard to my submission and he said that if the law of evidence, the law of contract and the general criminal law of the Muhammadans could be modified here in India, there was no reason why their law relating to marriage should not be modified. I have no intention whatsoever to snatch a reply to the observations of the Hon'ble Member, but I think as a matter of explanation, it might be urged and urged with a great deal of justice that the law of contract, the law of evidence and the criminal law of the Muhammadans was modified."

**The Hon'ble Mr. Bhupendranath Basu :** "May I rise to a point of order, Sir? My Hon'ble friend got the permission of the Chair to explain a question of personal conduct. I say that he has got no permission to reply to the speeches of Hon'ble Members."

**The President :** "The Hon'ble Member occupies the position of the Law Member of the Executive Council, and that adds considerable weight to any expression of opinion which he may give in regard to the interpretation of a specific point of law. In accordance with the Regulation, I am empowered as a special case to give the Hon'ble Member an opportunity of explaining that he has been misunderstood. My Hon'ble friend asked to be allowed to give an explanatory statement in regard to his exposition of the law, and I was very glad to accord the permission."

**The Hon'ble Mr. Syed Ali Imam :** "I had no intention whatsoever, as I already submitted, to snatch a reply. It is an old trick at the bar. I have no intention at all for a moment to bring that practice into vogue here in this Council. But if an Hon'ble Member of the position of Mr. Jinnah, with his repute as a lawyer, puts forward these views, I with very great respect thought of adopting—"

**The Hon'ble Mr. Jinnah :** "May I rise to a point of order, Sir? May I point out that the Law Member has not correctly stated the facts. He has omitted the reference to the *Lex Loci* Act from the statement I made."



**The President :** "I cannot allow this discussion to degenerate into the bandying of legal opinions. I think that the Hon'ble Law Member was entitled to make an explanation. He has made it and we will now proceed with the discussion on ordinary lines."

**The Hon'ble Mr. Bhurgri :** "Sir, I think the *pros* and *cons* of the Bill now before the Council were fully discussed in the debate which took place yesterday. There seems to be an overwhelming majority of public opinion against it, and for this reason the Hon'ble the Home Member advocates its rejection. May I be permitted to remark within parentheses that I am not quite sure that he would be as ready to recommend the rejection of all Bills which did not have the support of such a majority. Sir, to my mind the proposal made yesterday by my Hon'ble Leader, Mr. Gokhale, is far more commendable. He pointed out that the Bill has a strong intellectual force backing it, and suggested that it may be left to the Select Committee to see if it could not be so altered as to satisfy all parties. If the Committee proposed by Mr. Basu, which has a preponderance of official members, came to the conclusion that the Bill was unacceptable, it would then be time to throw it out, but to do so at this stage would be to leave in the minds of its supporters outside this Council Chamber the impression that it had not been fully or fairly considered. I therefore join in the appeal made by Mr. Gokhale yesterday to refer the Bill to the Select Committee."

**The Hon'ble Mr. Bhupendranath Basu :** "Mr. Vice-President, I do not think I need take up the time of this Council at any great length in combating the views that have been put forward in opposition to the measure that I have sought to introduce, but I must acknowledge my gratefulness to my friends here, especially those who have been opposed to my views, for the courtesy they have extended to my measure and the way they have dealt with it. That is itself an indication, if no further indication was necessary, that the Bill that I have placed before you commands in the first place the adherence of, what I may call without impertinence, the intellectual aristocracy of my country as well as of those who do not give expression to doubts and difficulties which may render the acceptance of my views difficult to the country. I am especially thankful for the very sympathetic attitude the Hon'ble the Home Member has taken towards the Bill. In his remarks as Chief Commissioner of the Central Provinces, he expressed his fullest sympathy with the object of this Bill, and though now translated to a higher sphere, he has retained that sympathy and has shown it in this Council. What he says makes me feel that if he had his own way, he would have given me permission to have this Bill referred to a Select Committee, but he feels overweighed by the responsibilities of his office and has laid down two propositions, the conditions of which if I could satisfy, he would be in a position to allow this Bill to be taken to a further stage. The two conditions that he has laid down are that the Government like the Government of British India would allow social legislation to be undertaken if there was an outrage upon some fundamental law of humanity or if there was an overwhelming majority in favour of this legislation.

"I shall deal firstly with the fundamental law of humanity which has been very broadly stated, and it is therefore to some extent difficult to meet. We are dealing now with first principles of legislation. Whatever may be the position of Government in a country, indigenous or alien, if any practice is opposed to the fundamental laws of humanity that practice must be put down. Well, my measure seeks only an expression of freedom of conscience and nothing more, and that is one of the first principles of legislation as well as of ethics. I am quoting from a book which is well-known to students of sociology. Sir Herbert Spencer in his 'social statics' dealing with first principles says 'that every man has freedom to do all that he wills provided he infringes not the equal freedom of any other man.' That is the first and the greatest principle in legislation as well as in ethics. There are, as Herbert Spencer points out, difficulties in application, but difficulties of application do not invalidate the principle : for instance, the bushman can count only up to 3,

from that it does not follow that the law of integral and differential calculus does not exist. If others are not prepared to concede this first principle either through ignorance or through superstition or through prejudice, or through passion, it does not follow that that first principle does not exist. Therefore, I take my stand upon the very ground on which my friend invites me to take my stand, namely, that the law that I seek to introduce is really the basic principle of legislation, that if it is not immoral, if it does not tread upon the privileges of others and if there is a feeling amongst some, that such a law should be introduced, then they ought to be given liberty to have that law. It is not a compulsory legislation—that ought to be borne in mind all through this debate. It is only a permissive legislation, and I am afraid that that feature and that trait of the measure was not kept in view very prominently in the discussions that have gone on in this Council. It compels nobody to marry according to my Code of Law. He may bring in any image worshipped by the Hindus, he may introduce every kind of Muhammadan practices in his marriage if he likes. He may not do it if he does not like. I am not going to refer to the practice of infanticide or of burning widows for they may be defended not on the first elementary laws of humanity but on different grounds as against inhumanity. But two such eminent jurists as Sir Henry Maine and Sir James Stephen, while dealing with this very legislation, laid down this proposition. Sir James Stephen, when introducing the measure that is now under discussion, quotes Sir Henry Maine:—‘I fully admit, moreover, that if the law is so arranged that persons who abandon one of these creeds, and do not adopt another, are by law prevented from marrying, or which comes to the same thing—thrown into a state of uncertainty as to the validity of their marriages, those persons are subject to the most grievous of all disabilities, and, however small their number may be, are justified in regarding themselves as the victims of a crying injustice which we are morally bound to remedy, notwithstanding any objections which may be taken to our so doing by members of the various recognized creeds. If we did not, we should distinctly violate one [of the leading principles which we are here to assert.’ These were the words of Sir Henry Maine, and Sir James Stephen says:—‘So far, I entirely agree with my Hon’ble predecessor.’ So, upon that test I hope that I have been able to satisfy the Council and my Hon’ble friend the Home Member.

“Coming now to the other test, the test of an overwhelming majority in my favour, I wish it were possible for me to comply with that test also. But I may respectfully venture to submit that that is not a correct test of social legislation. For, take a similar law, the law of civil marriage in European countries which have got an official State religion. Well, in European countries where they have got a State religion they have in spite of the opposition of the majority of the people concerned, introduced into almost everyone of them the law of civil marriage. What is the difficulty in Europe amongst homogenous communities following practically the same faith only in different forms, what is the difficulty of their union under the rituals of the Church. But there have from time to time grown up small sections in European communities animated or inspired by ideals different from existing forms and creeds who have not cared to follow the rites of the Church and for the sake of these very small minorities Dissenters, Protestants rebels against the existing faith of their country maintained by the State, the States have undertaken and passed legislation sanctioning their marriages. Does not that dispose of the argument of my friend that in matters of social legislation Government can only move if there is an overwhelming majority on the side of the people seeking that legislation. I may remind my friend that if there is an overwhelming majority that majority will not wait for the action of Government, but it will force Government to proceed to take action. Because we are in a minority, because those who want to go ahead are always in a minority in every country, that they have to go to Government for a consideration of their position, and if their position is not immoral, if their position is not hurtful to or does not affect the legal rights of others, civilised Governments in all countries have acceded to their prayer. I will now bring to the notice of the Council another piece of social legislation



which England has lately adopted, namely, the right to marry a deceased wife's sister. There again there was a considerable opposition from a large number of people, and I believe there was a large majority against it. But nevertheless they were able to get that legislation passed. Take again my own country. I am referring to the removal of forfeiture in the case of change of religion. There was not only no majority in its favour, there was not only no inhumanity in debarring a man from inheritance who forsook the religion of his fathers, there was not only the strongest injunction of the Hindu Sastras against these men inheriting, there was not only the explicit language of the Koran depriving these men of any benefits of their ancestral property, there was an overwhelming opinion in the country against the Government taking that step, there was a lurking suspicion that it was intended to promote the cause of Christianity, but nevertheless, and rightly I think, the Government felt that every man ought to have liberty of conscience to follow the religion that he thought best and because he had the courage to follow or adopt the religion he thought best, he should not be penalised. The Government rightly indeed introduced that legislation and passed it. That was a piece of social legislation (my friend the Hon'ble Mr. Shafi used the expression Socio-religious legislation), which the Government was able to carry out and for which the Government incurred some odium, and which I venture to think nobody will now dispute the justice of. Therefore I believe I have been able to meet the conditions laid down by the Hon'ble the Home Member.

"I will now proceed to deal with the points taken by my friend the Hon'ble the Law Member. My friend knows that on our side of the House he enjoys the greatest and the utmost deference, for though he may be sitting on Government benches he is one of us in our ideals, one of us in our methods, one of us in our pursuits and we are proud that he is where he is. His utterances are entitled to our most respectful attention. He has started difficulties of a different nature. My friend the Hon'ble the Home Member naturally dealt with the political aspect of the question, the Legal Member dealt with the legal difficulties concerning the question which we are now discussing. It would be absurd for me if I said that no difficulties existed, I believe my friend the Law Member will admit that in every important case that he had undertaken, there were enormous difficulties in his way, but that he was able often times to surmount them successfully. Well, my case also does present some difficulty. But I will appeal to the experience of my friend and all those who have been, like him and me concerned in the work of securing rights for people from whom those rights have been taken away will admit that so far as lawyers are concerned legal difficulties are only to be surmounted, and the legal difficulties that are around this proposition of mine are not so great after all that they cannot be surmounted. My friend has said, 'There is the Christian Marriage Act. What are you going to do with the Indian Christians. Your Act will affect them as well as the Act that they have got'; and that was the reason, he said that both Sir Henry Maine and Sir James Stephens excluded the Christians from the operations of their respective measures. In that view my friend is evidently wrong."

**The Hon'ble Mr. Syed Ali Imam:** "I have never said that, Sir."

**The Hon'ble Mr. Bhupendranath Basu:** "I offer my sincerest apology to my friend if I have misunderstood him. But without ascribing that statement to my friend, I will deal with it as an independent proposition. At the time of Sir Henry Maine the Indian Christian Act had not existed. The Indian Christian Act came into operation in 1872: Sir Henry Maine introduced his great measure in 1869. But he was dealing principally with a class of people in whose interests he thought that the Bill should be introduced, and among that class the Christians were not included. If there is a conflict in legal procedure—and it can only be a conflict in procedure—if my Bill passed into law, if there was a conflict in procedure about the marriages of Christians in India, that conflict can be very easily provided for in the Select Committee, and no one could be able to do it better than my friend the Hon'ble the Law Member. I believe it is admitted that so far as inter-marriages between different castes of the Hindus are concerned, there is no

difficulty in law or in status, but when intermarriages take place, as I hope they will take place notwithstanding that my Bill may not pass into law, but when intermarriages take place between Hindus and Mussalmans difficulties will arise as regards succession and inheritance and the status of the children. Sir, I believe when my friends either the Law Member or the Hon'ble Mr. Shafi made these statements about the difficulties they had overlooked that amongst the Muhammedans themselves there are very large and numerous communities, Khojas and Memons, who do not follow the Muhammedan Law of succession or inheritance, but who adhere to their ancient and original law of succession and inheritance. These were converts from the Hindu faith some centuries ago. When a marriage takes place between a Khoja or a Memon Muhammedan and a Muhammedan who is not a Khoja or a Memon, how is the succession of the children with regard to the property of their respective parents regulated? That must be well-known to Mahomedan lawyers. It is well known to many of us even on this side of India where there is a considerable settlement of Khoja and Memon Muhammedans. Then again, Sir, this is not a novel feature in Muhammedan life. What do you do when marriages take place between Muhammedans and Jews or Christians. The personal law of the Jew or the Christian is different from the personal law of the Christian or the Muhammedan. What happens to the issue? How is succession governed? How is inheritance regulated? That must be well known to my Muhammedan friends. Many marriages have taken place in Burma between Muhammedans and Burmese following the Buddhist faith. Difficulties so far have not presented themselves at least not such as have been insuperable. Then what happens? It has been said, what will be the fate of the children of such unions? Well, Sir, I have had a varied experience of life, and I have had to draw up settlements in cases of marriage between Mussalmans and non-Mussalmans more than once, and we had provided, with the advice of eminent Muhammedan Jurists, that in marriage contracts, that of the children if the father was a Muhammedan the sons should be brought up in the faith of the father and the daughters in the faith of the mother until they are of age to judge for themselves. The ordinary law, which must be known to all, is that unless and until the children are in a position to judge for themselves they will be taken to follow the faith of the father. That is a clear proposition of law handed down to us from Roman times, and I do not see that there is anything in our legal system which throws any doubt upon that proposition. Then, my friend, the Law Member has dwelt upon the express injunction of the Koranic law, and that law has provided (I will take its interpretation from my friend himself, than whom, so far as I am concerned, no better authority exists) that that law prohibits the marriage of a Mussalman with an idolator. But my friend forgets the idolators with whom the Koran had to deal, the worshippers of the stars. I do not think at the present day the most bigoted opponent of Hinduism will say that Hinduism is a form of idolatry, that we Hindus, in the images that we set up, worship the images and not the divine qualities which are supposed to be embodied in the images. And amongst us Hindus from the highest monotheism, higher than any conception of religion which has been vouchsafed to any other community or creed, we have varying stages according to the capacities of the people concerned, varying forms of faith and of worship. For to us it has been said of old, Never mind what the form is, I shall take you if you come to me in the true spirit. That certainly cannot be pronounced to be idolatry, and therefore that at once provides for a way out of the difficulty which the Koranic injunction lays down. That it is not a fanciful interpretation put by myself is abundantly clear from the writings of my friend the Right Hon'ble Mr. Amir Ali, whose authority rightly my friend the Law Member accepts. He says: 'Nor has there seemed to be any reason why a marriage with a Hindu woman whose idolatry is merely nominal and who really believes in God, should be unlawful.' That the strict letter of the Koranic law has been varied from time to time by Muhammedan jurists themselves, my friend will readily admit. But lest it should be thought that the statement stands upon my authority, I will quote the authority of another friend of mine, an eminent Muhammedan lawyer, Mr. Justice Abdur Rahman,



who has written a very valuable book on Muhammedan jurisprudence. He says, referring to the Ijmas.—practically legislative bodies which have the power of changing Muhammedan law to suit the changing needs of the times,—‘But as laws are needed for the benefit of the community, the divine legislator, that is God himself, has delegated to it power to lay down laws by the resolution of those men in the community who are competent in that behalf, that is the Mujtahids or jurists. The laws so laid down are presumed to be what God intended and are those covered by the definition of law as communications from God.’ I will not go further. That shows that even amongst Muhammedans in their palmyest days when they extended their empire from the Pacific to the Atlantic they well recognised—for they could not live and grow without that recognition—that jurists must be empowered to modify the law according to the changing needs of the times. We indeed are fallen upon evil times, Hindus and Mussalmans, and we are afraid to do what our forefathers and ancestors had done. My friend, while referring to the marriages of the Moghal emperors with Hindu princesses, threw out a suggestion that those princesses were made to pass through a nominal form of Muhammedan faith. He referred me to a footnote in Sir Roland Wilson’s book, but every book that I have been able to consult, Todd’s Rajasthan and other books dealing with Moghal times,—have thrown no light upon that subject. The Right Hon’ble Mr. Amir Ali proceeds upon the assumption that those ladies were allowed to retain their own faith. I do not know what a nominal profession of Muhammedan faith means. I wish my friend the Law Member had expounded that for our benefit. Any profession of the Muhammedan faith must be based upon the reading of the Kulma, and once you have read the Kulma, whether it is nominal or formal you are a Muhammedan to all intents and purposes. Sir, I suppose nearly every member of this Council has visited the splendid ruins of Fatehpur Sikri. If he has seen them, he must have been shown the temple which still exists and which was built for Akbar’s queen, Jodhibai, for her daily worship, and no doubt can be left on the minds of those who have visited these ruins that the Hindu queen was allowed to carry on her Hindu worship, and her son was the succeeding emperor of Moghal India. Then my friend raises another question which is not a legal question, and where therefore I am not prepared to submit to his authority with that same degree of respect and reverence. Why should the Government be asked to force down upon an unwilling people a legislation that they do not want? He has misapprehended, as I am sorry to see, my position. There is no question of force, there is no question of unwillingness. It is only to those who wish for it that you grant this legislation. Others are not bound to follow it. If you are unwilling, you stand outside it, there is no force, there is no compulsion. I believe I have dealt with all the points that were taken by my friend the Hon’ble the Law Member. If I have omitted any of them, it is not from any disrespect to my Hon’ble friend, but because in the hurry of the moment I was probably unable to catch their import.

“Now I shall deal with a few observations of my friend the Hon’ble Mr. Shafi. I hope he will not take it as an impertinence in me to congratulate him upon the effect that he has already produced in this Council. I wish I had his powerful support on my side. From a gentleman of his advanced views I had expected that support. He says that the Mussalmans are against it, so, unfortunately, are the Hindus or rather a large number of them. We are not legislating for those who are against us. We are legislating for those who are for us, who are with us, and we are not legislating against those who are against us. That is my position. My position is not that I am legislating for those who are against us, but we are not legislating against those who are against us. If I make that position clear, and nothing can be clearer than that, I am quite sure that the opposition of my friend Mr. Shafi will be withdrawn. I come now with your permission to some of the points which have been taken by my friend the Hon’ble Pandit Madan Mohan Malaviya. His opinion on questions of Hindu practices are entitled to the greatest weight. It would be a good day for us, people of India, if men of his type were able to rise above the environments of their life. That day is coming, though it may be a little late. He showed the attitude of his mind when he referred to a

member of the sweeper caste as a sweeper brother. That shows the catholicity of his mind and his spirit, and so far as I am concerned he has my highest respect and admiration for the expression. But if he had seen the sweeper brother of his as I did see some of a class equally depressed at the Social Conference that was held at Faridpur where the Namasudras were present, and if he had seen how one of them when he got up to speak, began his speech by a reference to the Brahmin caste, a reference which was not very friendly or very appreciative of the attitude of the Brahmins towards themselves, he would have probably modified that expression. But I can quite believe that the self-abnegation of my friend's mind may be like unto Him who, when his enemies were spitting upon him, said, 'Father, forgive them for they know not what they are doing.' But I may remind my friend that when he speaks of that sweeper brother of his, he is really guilty of self-deception, for what is the bond of brotherhood? If the sweeper brother of his happens to touch him even accidentally, he will incontinently run to the Ganges to have a dip to have himself purified, or take a big dose of cowdung to purify himself from the impurity of the touch."

**The Hon'ble Pandit Madan Mohan Malaviya:** "I would treat the sweeper brother with as much freedom as the Hon'ble Member."

**The Hon'ble Mr. Bhupendranath Basu:** "I am very glad to hear that, and I beg his pardon, but he knows that when I am referring to him, I am referring to men of his class, and if the sweeper brother happens to touch his food, it must be thrown into the street. Even if he overlooks the food that he takes, that food must be thrown away. And as my friend has said that just as much as he would refuse to marry his daughter or his sister to one of the sweeper caste, though he would call him his brother, a member of the sweeper caste would as much object to having his women-folk married to Brahmins or Kahatriyas. I do admit that, and I say that it is the only one trait that is good in the sweeper caste, for if every shred and vestige of self-respect has been taken away from him, he is not willing to let his women go to others on terms of concubinage, for there can be no valid marriage between his women and ourselves."

"My friend admits that the references that I have given of mixed marriages in the past are correct, but he says that the past is a very remote past. We live in the present, and must deal with the present. He says that the Hindus were great in spite of their laws in the past. I may remind him, that also was a remote past. Are we not entitled, are we not justified, is it not our bounden duty, to enquire into the circumstances which have led to the downfall of the Hindu, to enquire into the circumstances which have led to his decadence and his degradation? And when we do enquire, do you not find that one of the causes, which has led to his present position, is that the past has been forgotten. And is my friend so sure that we Hindus are so far divorced from the past that the past cannot be a guide to us for the future? Is not every text of law that we rely upon for our marriage, for our inheritance, for our succession, for our contract, for our evidence, based upon the Vedic *suktas* as he well knows? Their origin was in a very remote past, a past so remote that Vedic scholars have said that it was before the days of the glacial period, that the hymns of the Rig Veda were composed in the pine-clad forests of the arctic regions before those regions had become uninhabitable. Then coming down from the Vedas to the Smritis, every rule of conduct is decided by reference to these, and everything is sought to be justified by a reference to these authorities, the Smritis and the Srutis. Just as to the Moslem his laws are based upon the Koran as the direct revelation of God, to us Hindus they are also based upon the direct revelation of God made through the great Rishis in the past. And because through ignorance, it may be through other reasons, that we have forgotten the past that we are at the present moment in the condition in which we are. Sir, my friend has said that the Hindus have not complained, the vast bulk of them have not complained, why do you seek to introduce an element of discord into our life when we do not seek it. The vast mass of non-Brahmanical Hindus have not complained. I have said



enough of the sacerdotal caste in my speech yesterday, and I should be sorry to add anything to it. It was only imperative duty as showing, as dealing with, a sociological question that I referred to it. And now as my friend has referred to the absence of any agitation on the part of those non-Brahmanical classes in favour of my Bill that I am again obliged to refer to one incident. There is no question that the Brahmanical caste had kept by stringent laws the rest of India in ignorance. Well that was, according to some, a great stroke of policy. Not only did they impose their laws and their civilization upon a servile community but that that servility might endure for ever, they kept them in the densest ignorance. Well, Sir, the spirit of Machiavelli himself would have stood aghast at this Brahmanical ingenuity in being able to retain their power over a credulous people by imposing upon them the veil of ignorance through all ages and through all times. We in Bengal are beginning to feel the effect of education upon those depressed communities and they are showing their strength. My friend the Hon'ble Mr. Shafi says we are for evolution, my friend the Hon'ble Maharajdhiraja of Burdwan says, do not have a revolution. If you do not provide for a means of safety, I may tell you that that revolution will come at no very distant date, and I may tell you that it will be a bad day for all those who now sit upon pedestals of privilege and power.

"I come now to deal with the opinion of another very esteemed friend of mine the Hon'ble Maulvi Shamsul Huda. He knows that we Hindus, such of them as have the privilege to be his personal friends, are sincerely pleased at the recognition of his worth by Government. He was brought up, though he is by some years my junior, with ourselves at the Presidency College of Calcutta and not in the prospective University of Dacca, and he knows all our sentiments and feelings on the subject. I am sorry that he took the stand that he did take, namely, that he was here not to give expression to his own independent views, but merely to carry the mandate of his constituency. Well that is a proposition which I think it my duty to the Council to combat and to overthrow. Burke has been tabooed at the present time in our universities. But it was not tabooed in my days, nor I believe in the days of my friend. And I may be excused if I refer to a passage in Burke, in one of his speeches to the electors of Bristol, where he lays down the position of a representative of the people."

**The President :** "I do not think that the Hon'ble gentleman is entitled to go into the question of what is or is not the duty of a representative of the people on this occasion. But if he would kindly address himself to the Bill before the Council, it would be better."

**The Hon'ble Mr. Bhupendranath Basu :** "I accept the ruling of the Chair. My friend's position was this, that he would not press his own views, but the views of his own constituency. We were entitled in fairness to ourselves, to know what his views were on the subject, for it has been laid down by well-known writers of political science that it would not only be improper not to give expression to a man's personal conviction when dealing with a question that arises."

**The President :** "The Hon'ble Member is now doing what I represented to him I did not consider that he was entitled to do. He is perfectly entitled to advance the arguments of his Hon'ble friend, but he is not entitled to discuss whether he is right or not as a representative of his constituency."

**The Hon'ble Mr. Bhupendranath Basu :** "I have not for a moment disputed your dictum, but what I wanted to show this Council was this, that we are entitled to his views, and I am not disputing, subject to the dictum of the Chair, the proposition what my friend's position ought to have been, but I am only saying that by all the recognized canons on political science, a representative should give expression to his own views, even if they were contrary to the views of his constituency. But apart from that subject, even though my friend has not given views of his own, I cannot discuss or oppose views, which come from a constituency in the province of Dacca, except so far that one of such views is to the effect that it will take away from the Muhammedans the right of a polygamous marriage—a proposition which I am glad to find has not had much support from Moslem members in this Council."

**The Hon'ble Maulvi Shamsul Huda :** "I never said that."

**The Hon'ble Mr. Bhupendnath Basu :** "No, my friend did not say that, but my friend was relying upon the opinion of his constituency, and, as he did not put those opinions explicitly before this meeting, I also rely on opinions which have been circulated to us by the courtesy of the Government of India, and amongst those opinions a prominent place has been given to this aspect of the question from my friend's constituency in East Bengal.

"Now I come to my friend who sits next to me, the Maharajadhiraj Bahadur of Burdwan and may I say, 'If thou beest he, how fallen from him'; for if I remember right, my friend was the esteemed colleague, not a long time ago, of eminent Brahmo gentlemen such as Pandit Siva Nath Shastri and my friend Heramba Chandra Maitra in the promotion of the theistic movement in Bengal. Those were days to which my friend, I am sure, looks back with pleasure, though I am afraid he has not profited by them. He reminds us of that great nobleman whom Dryden has depicted, 'Stiff in his opinions always in the wrong, was everything by starts and nothing long.' I will not go on with that quotation. My friend is very wrath with me that I have introduced such a revolutionary measure. I have tried to explain that my measure is not at all revolutionary. He says I am troubled by my solicitude for the Brahmos, but the Brahmos include Christians, Moslems, Europeans. I believe he referred to Zulus. I do not know if there are any Zulu Brahmos. There may be and I hope there may be in the interests of the Zulus themselves. But it was not for these Zulus or non-Zulus that I was concerned I was concerned for those Hindu brethren of mine who had not adopted the Brahmo faith, who wanted to marry according to Hindu tenets, Hindu rites between different castes of the Hindus themselves. My friend has felt alarmed at the laws, at the confusion of the laws, which might upset inheritance, succession and adoption. I may assure him that there is not sufficient ground for his fears. I come now to my friend Sir Gangadhar Chitnavis. He is will to wound but afraid to strike. He would give me his support if he felt that victory would be sure. He says that it is desirable in theory, but not in practice. Why not in practice to those who want it? If it is desirable in theory, why should, I ask it as a matter of principle, why should human conduct be divorced from the end that is desirable in itself. If that were so, if that were a doctrine which we adopted, practical life would be divorced from the highest region of theory and religion would be at an end, whether Hindu, Moslem or Christian.

"There are no doubt difficulties. My friend the Law Member, I am sorry to say, is afraid of these difficulties. Where is my friend's courage? 'Extremity is the trial of spirits, when the sea is calm all boats alike show mastership in floating,' is a passage which I commend for consideration of my friends. 'I invite you to come out with me into the open, it may be to a rough and tempestuous sea. Will you come with me? I invite you not to a pleasure excursion on the placid bosom of the Hooghly. I invite you to undertake the task of social reform. Are you afraid? If you are, I bid you good-bye. I want trusted men who will stick to me whether I float or whether I sink. But the difficulties, such as they are, are not great. What I seek to introduce, I again repeat, is not an innovation, for, if the Christian in India can marry whomsoever he pleases without any change of faith on the part of either party, if that has wrought no havoc in its train, and that is a legislation which stands in our Statute Book since 1872, why should you fear that this will work havoc in its operation? If the past is any guide to the future, if experience has any value, why should you be afraid? My friend, Sir Gangadhar Chitnavis says it is good in theory. Take courage, my friends. A measure like this has not done you harm in the past: it will not do you harm in the future, I feel it will do you good, but certainly it will not do you harm. The real opposition is from a certain orthodox class of Hindus, and I am sorry to say from certain classes of Moslems. The opposition is from a feeling that there may be a dividing or crossing of the boundaries on both sides. It has been said that if my Bill became law, it would give occasion to the baser passions of humanity to find room for action. I deny that charge most indigenantly. It is rather in the direction of higher morality that my Bill points, and I say that if there is any foundation for such a fear, that fear exists fully in the present laws that we have got, for when people



are moved by passion, a mere profession will not stand in their way, and so far as the Hindus are concerned, they have got their safeguards. The Widow Remarriage Act was passed into law nearly fifty years ago. The last Census has shown that there are millions of widows between the age of 1 and the age of 9. How many of these have been remarried? Hindu society, as my friend the Raja Bahadur of Dighapatia has pointed out, has got in it the power of ex-communication—a power which it uses very freely when occasion arises, a power which has been used even in such an advanced City as Calcutta within very recent times over the marriage of a Hindu widow. Hindu society is well able to protect itself against such innovations: Hindu society stands in no fear. Must we Hindus and Mussalmans of India live in practical isolation for ever? Must there be no tender and intimate relationship between the communities? Faith is the greatest of our possessions, and it is because I believe that the present Act compels the denial of faith, and thereby keeps the communities asunder, that I have ventured to introduce this legislation. We must take a broader view of life, a more serious view of our duties to ourselves and to our country. If by keeping our respective faiths, we can join in the highest and holiest relationship of life, why should we not do so? Must we for ever range ourselves in rival camps, in water-tight compartments as the Honourable the Law Member said? And must we look on helplessly without being able to render each other assistance, while members of our community are being sweep down the current of time? I am sure that is not the feeling of educated India—Hindu or Muslim—and if I provide a bridge which the venture some might tread, will you prevent my putting up the first prop? You may do so, but yours will be the responsibility. Your names will answer to posterity. And as for the Government, would it go back upon its own declared policy of justice to all and injustice to none? I have shown in the language of your own legislators, legislators greater than whom have not sat within the precincts of this Council, as to what the attitude of the Government ought to be. If it is justice to some, to a class, who think they ought to be allowed this liberty, why should you withhold it from them. In Christian countries, Civil marriage has been introduced and adopted notwithstanding the dominant faith of the State. Why not in mine? I admit there are matters for adjustment, matters which I do not regard as insuperable difficulties. I frankly said that they should have the most careful consideration. I have suggested a Select Committee in which Government predominates, and where the opponents of my measure are very strongly represented. Let it go. I ask the Government let the Bill go to the Select Committee. Let us see if we cannot evolve a Bill out of our conjoint labours which will meet the wishes of the more advanced and not violate the sentiments of the more orthodox. If we cannot, there is no harm. If we may, we leave a legacy for our children greater than any earthly kingdom. We shall begin the writing of a new page in Indian History. We shall have forged the first link of a new bond for Hindus and Moslems. We shall have laid the foundations, well and truly, of a great national structure, and, Sir, yours will be the glory, yours the credit, for you will be the master-builder, we but humble labourers. For God's sake, tie us not to the dead and unyielding roots of fossilised customs, while we see the stream of life recede from us, "what custom wills in all things should we do it, the dusty antique times will lie unswept, and mountainous error will be too highly heaped for truth to o'erpower."

"Let us rise above custom and follow truth."

The Council divided:

*Ayes—11.*

The Hon'ble Raja of Dighapatia, the Hon'ble Mr. Bhupendranath Basu, the Hon'ble Mr. S. Sinha, the Hon'ble Mr. Haque, the Hon'ble Mr. Gokhale, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. Madge, the Hon'ble Mr. Dadabhoy, the Hon'ble Mr. Jinnah, the Hon'ble Mr. Bhurgri and the Hon'ble Sir V. D. Thackersey.

*Noes—43.*

His Excellency the Commander-in-Chief, the Hon'ble Sir Robert Carlyle, the Hon'ble Sir Harcourt Butler, the Hon'ble Mr. Syed Ali Imam, the Hon'ble

Sir Reginald Craddock, the Hon'ble Major-General Sir M. H. S. Grover, the Hon'ble Mr. MacLagan, the Hon'ble Mr. Porter, the Hon'ble Mr. Sharp, the Hon'ble Mr. Enthoven, the Hon'ble Mr. Wheeler, the Hon'ble Mr. Brunyate, the Hon'ble Pandit Madan Mohan Malaviya, the Hon'ble Nawab Abdul Majid, the Hon'ble Maulvi Shamsul Huda, the Hon'ble Mr. Lyon, the Hon'ble Maharajahhiraja of Burdwan, the Hon'ble Mr. Saunders, the Hon'ble Sir James Meston, the Hon'ble Mr. Gordon, the Hon'ble Mr. Fremantle, the Hon'ble Mr. Todhunter, the Hon'ble Surgeon-General Sir C. P. Lukis, the Hon'ble Mr. Vincent, the Hon'ble Mr. Carr, the Hon'ble Raja of Kurupam, the Hon'ble Mr. Arthur, the Hon'ble Mr. Fyffe, the Hon'ble Mr. Armstrong, the Hon'ble Sir G. M. Chitnavis, the Hon'ble Mr. Phillips, the Hon'ble Mr. Meredith, the Hon'ble Mr. Muhammad Shafi, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Malik Umar Hayat Khan, the Hon'ble Maung Mye, the Hon'ble Mr. Gates, the Hon'ble Mr. Slacke, the Hon'ble Sir Charles Stewart-Wilson, the Hon'ble Mr. Dempster, the Hon'ble Sir T. R. Wynne, the Hon'ble Mr. Kenrick and the Hon'ble Mr. Kesteven.

So the motion was negatived.

#### LIFE ASSURANCE COMPANIES.

**The Hon'ble Mr. Enthoven :** "Sir, in the unavoidable absence of the Hon'ble Mr. Clark, I beg to present the Report of the Select Committee on the Life Assurance Companies Bill. The Report contains a detailed statement of the amendments which the Committee recommend, but it will perhaps be convenient if I briefly call attention now to one or two of the more important. The first of these relates to the initial deposit which is required from Life Assurance Companies. In the Bill as introduced, this deposit was fixed at one lakh. This amount has been criticised on both sides, both as an unreasonably large sum to put down all at once, and as too small a sum to afford an efficient security. The Committee on our suggestion have now recommended that in place of a lump sum of one lakh, there should be an initial deposit of Rs. 25,000 followed by a deposit of one-third of the gross receipts of a life assurance business until the total reaches one lakh, and thereafter of one-third of the net profit derived from life assurance business until the total reaches two lakhs. That is to say, instead of a deposit of a lump sum of one lakh, the Bill now provides for an initial deposit of Rs. 25,000 working up to two lakhs. We think that this is the fairest way of meeting the difficulty. It secures the eventual deposit of a substantial sum and at the same time does not impose an excessive burden on the smaller companies which though small may at the same time be perfectly sound.

The next amendment of importance is in the note to clause 5 which lays down that nothing in section 5 shall be deemed to require the investments of any life assurance fund to be kept separate from the investments of any other fund. This provision is not very clearly worded. What is meant is that there is nothing in the section to require any life assurance fund to be invested in separate investments from any other fund, and this has now been made clear in the note. We have also provided in the note for a separate balance sheet to be kept in respect of a life assurance fund. The important thing is to show what the investments of a life assurance business really are, and this we hope to secure by means of a separate balance sheet. The balance sheet will be shown in very full detail, but I will refer to this when I mention the amendments made in the Schedules.

"The next amendment of importance is in clause 15, where we have introduced a general provision that the accounts of every life assurance company shall be audited in such a manner as the Governor General in Council may prescribe. This provision is intended to secure a competent audit, which is admittedly necessary for the accounts of a life assurance company. The Bill originally made this provision only in the case of companies not registered under the Indian Companies Act, but, in view of the fact that the existing Companies Act does not make any provision as to the qualifica-



tions of the auditors to be employed, it seemed desirable to extend the provision to all companies whether registered under the Companies Act or not.

"Another amendment of some importance is that we have introduced a provision giving the Governor General in Council power to extend the exemption accorded in clauses 32 and 33 to companies carrying on life assurance business in the United Kingdom, to companies operating under the laws of foreign countries or British Colonies, in cases where the Governor General is satisfied that the laws are equally stringent and equally well administered as the laws of the United Kingdom. This provision speaks for itself. In the interest of people who insure their lives in India, it clearly should not be our policy to throw unnecessary obstacles in the way of companies controlled by satisfactory laws.

"In clause 38 we have extended to policy-holders possessing a pecuniary interest in a company of not less than Rs25,000, the right which the Bill previously conferred on shareholders only of applying to the Governor General in Council for the appointment of inspectors to examine into the affairs of a life assurance company. This provision requires no explanation or defence.

"With a view to making the administration of the Bill more elastic and making it easier in future to deal with hard cases which may arise, we have given the Governor General in Council a general power for exemption of any life assurance company from any of the provisions of the Act—a provision which has been taken from some of the Colonial Life Assurance Acts. We have also provided powers of delegation to Local Governments, but I should add that there is no intention at present of decentralising the administration of the Bill when passed into law. There are strong reasons for thinking that the scrutiny of the returns and reports received will be better done at head-quarters, and in this connection I may perhaps mention, though it is not a matter which has been necessary to provide for in the Bill, that the Government of India are in correspondence with the Secretary of State in regard to securing the services of a Government Actuary. We do not think it necessary, as has been suggested by some authorities, to create a separate department for the administration of this Bill and the Provident Societies Bill, but we are convinced that the various accounts and returns could not be satisfactorily scrutinised and tested without expert actuarial assistance.

"Considerable amendments have been made in the first and third Schedules, that is, the Annual Revenue Account and Balance Sheet. In the Life Assurance Account, we have omitted the separation of the assets and liabilities into 'Those in British India' and 'Those out of British India.' We agree with the Bombay Chamber of Commerce that the distinction would cause more trouble than it is worth. On the other hand, we have added to the Revenue Account a statement showing in some detail the actual business done in India by each company, and the total investments of the life assurance and annuity funds held by the company in India. In the Revenue Account also, we have elaborated in detail the items which make up the expenses of management. In the Third Schedule, both in the General Balance Sheet and in the Balance Sheet of the Life Assurance Fund, we have modified considerably the items of investments to be distinguished, and have required a separation of those held in India and those held out of India. We also require a separate statement of the amount of investments with any uncalled liability and a statement of all loans, other than on policies within their surrender value, made to directors or officers of the company or to any other company in which the said directors or officers hold the position of director or officer. These alterations, I think, add considerably to the value of the information given in these annual returns."

#### PROVIDENT INSURANCE SOCIETIES.

**The Hon'ble Mr Enthoven:** "Sir, I beg to present the Report of the Select Committee on the Provident Insurance Societies Bill. The Select Committee, while preserving the main principles of the Bill, have made considerable alterations in its details; and to some of the more important of these I desire now to call attention.

"We have, in deference to the views of a number of authorities, introduced the definition of terms referred to in the Bill into the Bill itself, instead of providing for them by a reference to the definitions contained in the Life Assurance Companies Bill. We have also, as in the case of the Life Assurance Companies Bill, and for similar reasons, provided for a general power of exemption, to be exercised in this case by the Local Government, of any society or class of society from all or any of the provisions of the Bill. This provision is likely to be found useful in connection with the private or semi-private provident funds of railways, mercantile firms, etc., referred to by the Bengal Chamber of Commerce, which Local Governments may not desire to bring under regulation.

"We have given power to Local Governments to extend the operation of the Bill to societies dealing with incidents other than births, marriages and deaths. At the present time these three incidents cover practically the whole field in which these societies operate, and practically all the societies of which we have information deal in insurances on one or more of these incidents. We have extended this clause, in deference to the view of the Government of Madras, where the greater number of the present societies exist. The advantage of the extension is that it will tend to prevent societies undertaking insurances of a different kind merely with a view to avoid the restrictions of the present Bill.

"In the definition of Provident Society in clause 3 of the Bill, we have introduced some important alterations. We have, in the first place, abandoned the distinction which made a society subject to the Life Assurance Companies Bill if it had a nominal share capital exceeding Rs. 25,000. We felt that the distinction by amount of share capital is not scientific, and that the proper criterion should be the nature of the business undertaken. At the same time, we have reduced the amounts of the undertakings to pay and of the contributions which are admissible in the case of Provident Societies to one half in each case. We have also definitely provided that previous contracts shall not be considered in determining whether a society is a life assurance company or not. A certain number of the societies at present existing do business in excess of the amounts now prescribed. It will be open to these societies to reduce the scale of their future business to the limits allowed by this Bill, if they wish to avoid being classed as Life Assurance Companies. We consider that the amounts recommended by the Select Committee, which have the support of the Bombay Chamber of Commerce, are fair, and that a society exceeding these limits must be required to submit to proper regulation as a life assurance company.

"In connection with clause 4, which deals with the question of insurable interest, a suggestion has been made that the Bill should intervene to restrict insurances on the lives of children. We have not seen any evidence of abuses of this class of insurance in India hitherto, but we recognise that such abuses are liable to occur. We have therefore required in clause 15 that every society shall maintain in the prescribed form a record of every insurance effected on a life other than the life of the person insuring and shall deliver annually a copy of such record to the Registrar. In this way Government will have before it evidence of the extent to which such insurances are being undertaken, and will be able to decide whether there are grounds for more detailed enquiry or for preventive legislation.

"In clause 5, which deals with the rules of the Society, we have introduced several alterations. We have modified rule 5 (b) so as to require the rules of the Society to prescribe the proportion of the annual income derived from premiums or contributions which may be disbursed for the expenses of management. The original draft of this clause endeavoured to effect the same result in a negative form, which was less satisfactory. We have recommended the deletion of clause 5 (d) (ii) as we consider that in certain circumstances, for instance in the case of a defalcation or in the case of other sudden and accidental expenses falling in a single year, the provision made in this sub-clause would not be a fair one to impose upon a dividing society, and that in any case such



a society's position cannot be estimated fairly by the result of a single year's working.

"In clause 17, which deals with the enquiry that may be held by the Registrar into the solvency of a society or the conduct of its business, we have provided that the Registrar must make such inquiry if application is made by ten members or policy-holders of the society. Abuse of this provision is, however, safeguarded by the fact that the applicants will be required to make out a *prima facie* case to the satisfaction of the Registrar, and to deposit security for the costs of the proposed inquiry. We have in the same clause provided in greater detail for the powers exercisable by the person holding such inquiry and for the communication of the results of the inquiry to the society and to the applicants (if any).

"We have, in agreement with the views of several of the Local Governments and authorities consulted, provided for an appeal to the Court against the orders of the Registrar refusing to register a society or its rules or amendments of its rules or cancelling the registry of a society. The powers exercisable by the registrar under this Bill are wide, and we consider it desirable that there should be a safeguard against any arbitrary action. We have also provided for an appeal to the Court against the order of a liquidator and for the trial of all cases under this Bill by a Court not below that of a Magistrate of the first class."

#### DISTRICT COUNCILS.

**The Hon'ble Mr. Gokhale :** "Sir, I beg to move that this Council recommends to the Governor General in Council that steps should now be taken to bring district administration into closer touch with the people by creating, as far as possible, in every district in the different Provinces a District Councils, composed of not more than nine members, partly elected and partly nominated, whose functions should be merely advisory, to begin with, and whom the Collector should ordinarily be bound to consult in all important matters.

"Sir, one of the most important and at the same time one of the most difficult problems connected with the Government of this country is how to liberalise the character of our district administration and to bring it into closer association with those who are affected by it. Leaving our local bodies for the time out of account and taking a broad survey, the fabric of our Indian administration may roughly be said to have the district administration for its base, the Provincial Governments and Administrations, in some cases with Executive Councils, in most with Legislative Councils, for the centre, and the Government of India with its Executive and Legislative Councils for the top, the Secretary of State with his Council standing behind all and above all, representing Parliamentary sanction, Parliamentary initiation and Parliamentary control. To put the same thing in another way, Sir, one might say that the immediate responsibilities of day to day administration rest on district officers, while the larger responsibilities of the administration, including the work of guidance and control, as also of initiating policies and developing them, belong to the Provincial and supreme Governments and to the Secretary of State. Now, Sir, before the reforms of the last five years were introduced, the character of this administration was frankly and almost entirely bureaucratic. I use the term in no offensive sense, but simply to mean that it was administration by officials conducted with the aid of official light, and under merely official control. There was no provision in the whole machinery of administration, from top to bottom, for the direct and responsible representation of what might be called the Indian view of things, if one may speak of such a thing as the Indian view, in spite of our numerous differences among ourselves at any set of authority; and there was no responsible association of our people with any portion of the administration. The reforms of the last five years, however, by admitting Indians to the Secretary of State's Council, and to the Executive Councils of the Governor General and of Provincial Governments have, in the first place, provided for the direct and responsible representation of the Indian views at the principal seats of authority. Next, Sir, by enlarging the Councils, room has been found on those bodies for the representation, inadequate and

unsatisfactory as it is, of different interests in the country, and lastly and above all, by the expansion of the functions of these Councils and in particular by the power of introducing Resolutions, which has been conferred upon members, we have been enabled to raise discussions on matters of public interest face to face with responsible officials; and this has on the one hand given a new sense of responsibility to the critics of the administration, and on the other it has ensured a proper and careful examination of our suggestions and our grievances at the hands of the Government, such as was not possible or was not deemed necessary before. Of course, we are yet a far way from having a real, effective voice in the administration, leave alone the question of exercising a direct control over it; but what the recent reforms have achieved is that they have started a system, which tends more and more to substitute an administration conducted in the light of day, and under the eye of public criticism, for an administration conducted in the dark and this undoubtedly is a great step in advance. So far, therefore, as the centre and the top are concerned, the administration now be said to be considerably liberalized, and we must all recognise that the fullest possibilities of these changes will have to be worked up to before the necessary momentum is gathered for a further advance. Our district administration, however, continues to be where it was not only five years ago, but, if we leave out of account the small measure of local self-government given by Lord Ripon, it continues to be where it was more than a hundred years ago. It is true that the position of the Collector—and I use the word 'Collector' to represent the head of the district, though in non-regulation provinces that term is not used—has been considerably modified as regards his relations with other officials during the last 100 years and more, first by the creation of Commissionerships (that institution is itself three-quarters of a century old); secondly, by the multiplication of central departments; and thirdly, by the gradual evolution of a uniformity of administration which has rendered strong secretariat control both necessary and possible. But while the old position of the Collector in relation to other officials has thus been considerably modified so far as the people are concerned, there has been no improvement in the situation: if anything, the position has grown worse. This fact was freely admitted by witness after witness before the Decentralization Commission, and those who appointed the Commission were themselves fully alive to it, because one important object of the enquiry was stated by them to be how the district administration could be brought into closer touch with the people. There is no doubt that the present position of the Collector, so far as the people are concerned, is, in one sense, much weaker than it used to be. In the first place, owing to excessive secretariat control, he is unable any longer to grant redress on the spot. Secondly, owing to the multiplication of numerous central Departments, harassing departmental delays have become inevitable in the disposal of matters which, properly speaking, in the interests of the people, should be disposed of on the spot under the authority of the Collector. Thirdly, owing to the spread of English education in the country and other causes, there is not the same mastery of Indian languages now attempted by Collectors that they used to acquire before. Fourthly, the writing work of the Collector has increased enormously; he is thus tied largely to his desk, and therefore unable to acquire that same acquaintance with the requirements of the people that his predecessors were able to acquire. And, lastly, his back has been stiffened by the growth of political agitation in the country, and he has been, so to say, driven more within himself. All these factors have tended to affect his position for the worse, so far as administering the district in the interests of people is concerned. The Decentralization Commission, which freely admits the existence of these defects, and which was appointed to suggest a remedy, was, unfortunately, so constituted that its eye was fixed more on official remedies than on non-official remedies. There was only one Indian member on it, and he too was an ex-official. But he was one of our foremost men and he was in favour of the proposal which I have laid before the Council to-day. All the members, with the exception of two, belonged to the Indian Civil Service, and the two out-



siders had no knowledge of the country. The Commission therefore started with what I would call an official bias, and it did not seriously enquire into those remedies who may be called non-official remedies for the state of things which I have already described. The Commission suggested a large measure of delegation of powers from higher authorities to the Collector—an official remedy, pure and simple. However, as the mischief is admitted by everybody, the Council will recognize that it is desirable that the question should be examined from every standpoint, and any non-official remedies that can be suggested fully and discussed : and it is because, Sir, I think that the proposal, contained in my resolution is such a remedy,—a remedy which seeks to associate non-officials with the work of administration that I have brought forward the matter before the Council to-day.

“ Sir, there are those who regret that the old order has passed away, that the old autocracy of the Collector is no longer possible. It is significant, however, that some official witnesses themselves do not share this regret, and recognise frankly that the past cannot be recalled. The past really never returns, and in this matter, even if the past could return, I think it would not be desirable that it should return, for things are not where they were a century or even half a century ago. There is a new element introduced into the situation by the growth of an educated class in the country—an educated class that is entirely the creation of British rule. Now, by the educated class, I do not merely mean, what many of the witnesses before the Commission meant, namely, lawyers and other members of the learned professions. Sir, it is a pity that so many officials adopt an attitude of sneering particularly towards lawyers. Such an attitude, for one thing, is singularly inappropriate from the representatives in this country of a nation, which has at the present moment for its Prime Minister, for its Chancellor of the Exchequer and for its Minister for War, three lawyers in England. Sir, however some officials may sneer at the lawyer element in India, the non-official public will always recognize—and I can make this acknowledgment with the less hesitation because I am no lawyer myself—that we owe a debt of gratitude to the lawyers for the manner in which they have built up the public life of this country. But though our lawyers are still our most independent element in public life, they are not the only persons who came under the category of the educated class. It is not only the lawyers or the school-masters or the editors that constitute that class ; the educated men of the land-owning or mercantile class are also included in the description ; men like my Hon'ble friend Sir Gangadhar Chitnavis who sits behind me, or my friend Sir Vitaldas Thackersey who sits on my left. Surely men, like these gentlemen, who have come under the influence of Western education in the same way as others, are as much included in the educated class as any others. It may be that the special peculiarities of their position impose special restrictions on the way they express themselves. That is another thing. But we know for a fact that they hold more or less the same views as other members of the educated class. It cannot indeed be otherwise. Now, Sir, it is a matter of regret that the attitude of many official witnesses towards the educated class should be what one finds it in the evidence given before the Decentralization Commission. It is true that that was four years ago, when the atmosphere in the country was considerably heated, and one should not recall those things more than can be helped in these days, when the sky is clearer and the atmosphere cooler. However, as this is a matter of some importance, I deem it necessary to make one or two observations before I leave it. Sir, there is no doubt whatsoever that the incessant criticism to which some members of the educated class subject the administration of the country, often tries the temper and exhausts the patience of the official class—especially when that criticism is ill-informed as it sometimes is, and takes the form of an indiscriminate denunciation of the official class. But when expressions of impatience and annoyance are used towards the educated class or ebullitions of temper are permitted in official documents intended for publication, all I can say is that such a thing serves no good purpose whatever. Of course these are things to which an exaggerated importance must not be attached, but the plain fact has got to be recognised that mere impatience on the official side cannot now

abolish the educated class, just as indiscriminate attacks by non-officials cannot abolish the official class. The fact of the matter is that the two sides have got to get on together in this country for the good of the country; and it is to be hoped, now that the atmosphere has been largely cleared, thanks, among other things, to the King-Emperor's visit, and under the new influences that one feels on all sides that there will be less and less of this impatience on the one side and of indiscriminate denunciation on the other. Well, Sir, I was saying that the growth of this educated class introduced a new element into the situation which makes a return to the old autocracy of the Collector now absolutely impossible. You have got to give an interest to this class in the administration of the country. It is not enough now that the administration should be carried on efficiently and honestly by the officials; it is further necessary that representative Indians of education and position should be associated with the administration. These men have grown up with ideas about Government different to those with which their forefathers were brought up. If you keep them out of the administration, they will become mere critics of the administration. Now, the limits of fair criticism are soon reached, after which there can be only unfair criticism. If you have a large section of the community in the position of mere critics, fair criticism being soon exhausted and unfair criticism having set in, each succeeding critic tries to go one better than each preceding one and thus the criticism passed tends daily to become more and more unfair. In the interests of the administration itself, therefore, it is necessary to admit the educated class of the country to a share in the responsibility of administration and to give it an interest in that administration. Therefore, Sir, there can be no more a return to the past. If that is accepted, and if the state of things is as I have already described it to be, what is the remedy? That is the next question. Let us recapitulate again the requirements of the situation. Those requirements, to my mind, are three. In the first place, we want more government on the spot, and more expeditious government. These departmental delays and this excessive reliance upon the secretariat—from these the District Officer ought to be freed. More expeditious government, more government on the spot; that is the first requirement. The second is, an interest in the administration must now be given to the educated class that has come into existence; an educated class with which the official class must, moreover, learn to get on: and the third is that provision must be made for the grievances of the district being ventilated in a responsible manner in the district itself. This is an aspect of the question to which I attach great importance. If these grievances have to be taken to the provincial administration, and have to be brought up for discussion in the Provincial Councils, what happens is this. The grievances from the whole province gather together, and come in one stream, so to say, before the Provincial Government;—in one stream, when a meeting of the Legislative Council happens to be held; and that conveys an altogether erroneous idea about the whole administration, as though things were wrong here, there, everywhere. What is necessary is that as a grievance arises it should be dealt with, as far as possible, on the spot. There should be opportunities available to the people to bring it in a responsible manner before the head of the district and have it removed. Then it ceases to be a subject of discussion in so many homes. Then it ceases to breed that poison which gradually comes to fill the air and does infinite mischief both to the Government and the people. These, then, are the three requirements of the situation. Now my proposal is that the Government should take steps to create in each district an Advisory Council, constituted on the lines I have indicated. Of course, the suggestions are only tentative, and the actual details will have to be carefully worked out before a change of this magnitude is introduced by the Government. But I should like an Advisory Council in each district, partly elected and partly nominated. Supposing it is a Council of 9, I should have 6 members elected, and 3 nominated. Or if it is a Council of 12, I should have 8 elected and 4 nominated. I should leave the power of nomination into the hands of the Collector, who will then be able to appoint men who do not care to stand for election, but whom it is desirable to have on the Council. But a majority of the Council must come in by election because it is the only way, known to modern times, by which you can give



responsible representation to different interests. A Council then, should be created in every district, as far as possible, of which two-thirds, or any other proportion more than half, should be elected, and the rest, less than half, nominated. This Council, to begin with, should have only advisory functions, though they need not always remain advisory if the experiment proves a success. In this country in our exceptional situation we can progress only tentatively, and from experiment to experiment as each experiment succeeds. If the proposed experiment proves a success, more responsible powers could certainly be entrusted to the councils in due course. It is necessary that the Advisory Council should be a small body, in order to meet the objection that has been raised by some that it might otherwise degenerate into a talking body. A body of nine or ten members, sitting round a table with the Collector, assisted by other district officers, meeting once a month, would be able to dispose of a lot of business on the spot, which at present involves endless delays and indirectly to get rid of a lot of poison which now gathers in a district from day to day, and which tends to vitiate the air in a manner, truly regrettable. This is roughly the proposal that I am putting forward. I may mention that there is an analogy for this in Western countries. On the Continent of Europe I find in several countries bodies like the Council that I am proposing, only possessing more responsible powers. I will mention one case—that of Prussia. Of course, I have no personal experience of the matter, and my knowledge is derived entirely from books. But this is what I find to be the state of things in Prussia. I am quoting from Woodrow Wilson's *State* :—

'The government district in Prussia is not an area of self-government, but it is exclusively a division of State administration.'

"A district in Prussia is nearly the same in area as a district in India. The average district in Prussia is about 3,800 square miles; the average district in India is about 4,100 square miles.

'Its functionaries are the principal,—it may even be said the universal,—agents of the central Government in the detailed conduct of administration: they are charged with the local management of all affairs that fall within the sphere of the Ministries of the Interior, of Finance, of Trade and Commerce, of Public Works, of Agriculture, of Ecclesiastical and Educational Affairs, and of War, exclusive, of course, of such matters as are exceptionally entrusted to officers specially commissioned for the purpose. In brief, they serve every ministry except the Ministry of Justice.'

"These functionaries of the district are called the 'Administration' and they work through boards. I need not trouble the Council with details. The President of this body, who corresponds to our Collector, and who is the special representative of the Ministry of the Interior, works alone. All the other departments work through boards. This is how the position of the President is described :—

'The President of the Administration is the most important official in the Prussian local service. Not only does he preside over the "Administration," the general and most important Agency of Local Government; he is also equipped for complete dominance. He may, upon occasion, annul the decisions of the "Administration" or of any of its Boards with which he does not agree, and, in case delay seems disadvantageous, may himself command necessary measures. He may also, if he will, set aside the rule of collegiate action and arrange for the personal responsibility of the members of the "Administration" whenever he considers any matter too pressing to await the meeting and conclusion of a Board, or, if when he is himself present where action is needed, he regards such an arrangement as necessary. In brief, he is the real governing head of local administration. The jurisdiction of the "Administration" covers such matters as the state taxes, the churches, the schools, and the public domain, etc.'

"Now comes the analogy. There is a district committee associated with this officer. It is described by the author as follows :—

'Although, as I have said, the Government District is not an area of self-government, a certain part in the oversight of governmental action in the District is given to lay representatives chosen by the Provincial Agents of the people. A District Committee (there is a long German name which I dare not pronounce), composed of two professional members (one of whom must be qualified for judicial office, the other for the higher grades of the administrative service) appointed by the King for life, and of four members chosen by the Provincial Committee for a term of six years, is allowed an oversight of such matters as it has been thought best to put under lay supervision. The President of the Administration is *ex officio* a member of the Committee and usually presides over its sessions. All orders or arrangements which he wishes to make with regard to local police are subject to its confirmation, and all

questions regarding the control of subordinate local authorities fall to it. More important than its administrative functions are the judicial functions with which it has been recently invested.

"But that refers to matters which do not concern the present discussion.

"Here then we have an analogy which in many respects is useful for our purpose. I find that in some other countries too, there are similar bodies. So the idea may well be taken up and worked out.

"I may mention that I ventured to submit my proposals on this subject to the Decentralization Commission, before which I gave evidence, and if the Council will bear with me, I would like merely to repeat briefly here what I said there, as regards the principal details of the scheme. Roughly I would divide the functions of the Collector into four categories. First must come matters, which are urgent and confidential, in regard to which, of course, he must have the power to do what he thinks proper without consulting the Council. Secondly there would be matters which he must refer to the Central Government for final disposal, whether there is a Council or not, but in regard to which he would express an opinion or make a recommendation. Here the opinion of the Council should also be ascertained by him and forwarded to Government along with his own opinion. The third division—and here is what would make a great difference to the people—would be of matters, which the Collector should be empowered to dispose of on the spot, if he is able to carry his Advisory Council with him, but which he must otherwise refer, as at present, for orders to the Central Government. This is what will really constitute in some respects the distinctive feature of the scheme, freeing the Collector from the present excessive secretarial control, and associating with him a small body of non-official representatives to prevent his being a mere autocrat and giving the people some voice in the disposal of their affairs. What I would like to see is that the Collector should be the head of an Executive Board, consisting of the Engineer, the Educational Inspector and other officers belonging to the other Departments in the district. And he should have in addition an Advisory Council like the one I have outlined. With the assistance of the Executive Board, he should carry on the general administration of the district and many matters, which he at present has to refer to the Central Government, he should be empowered to decide on the spot with the assistance of his Advisory Council. The last division will be of matters, in which the Collector, though bound to consult his Council, should be free to act as he deems best, taking or rejecting the advice of the Council, as he likes.

"In my evidence before the Decentralization Commission, I stated briefly what matters should belong to the different categories. The lists were prepared with much care and thought and with the assistance of men who had spent their lives in the work of administration; so it could not be said that the proposals had emanated from men who did not know anything of the administration of the country. In making these lists, I necessarily had in view the type of administration which prevails on the Bombay side, but substantially they might be made to apply to other provinces as well. Leaving confidential matters alone, and taking the second category, I would include in it (1) Legislative proposals, (2) proposals of revision settlements, (3) revision of water rates, (4) recommendations about remissions of land revenue, (5) creation of new Municipalities, (6) extension of the operation of Acts to new areas, (7) imposition of punitive police, and (8) creation of new posts. All these matters must go to the Central Government in any case, but the Collector should ascertain the opinion of his Council and send that opinion along with his own. In the third category, which concerns the most important part of my scheme, I would have matters, which, as I have already explained, the Collector should dispose of finally if he is able to carry his Council with him, but which he must otherwise refer to the Central Government. If the Council does not agree with the Collector on any question, nothing will be lost, as the matter will go to the Central Government as at present; but where the Council agrees with the Collector, he should be freed from the control of the Secretariat, and the matter decided there and then. Among such matters would be (1) opening, location and abolition of liquor shops, (2) suspensions of land revenue, (3) levy of building fines, (4) city survey



proposals, (5) organization of local supply from forests, (6) opening of new and closing of old schools, (7) establishment of village Panchayats and Unions, (8) suspension of Taluka Boards, Municipalities, Panchayats and Unions, (9) creation of Benches of Magistrates, (10) rules regulating fairs, processions, etc., and (11) assumption of property under the Court of Wards Act. Lastly would come those matters which the Collector may decide as he deems best, even against the opinion of the District Council, such as (1) urgent precautionary measures against plague, cholera and other epidemics, (2) measures for preservation of peace, (3) measures of urgent famine relief, and so forth.

"I have endeavoured to give the Council an idea as to what I have in my mind in bringing forward to-day's resolution. If this proposal is taken up by the Government for serious consideration, the details will necessarily have to be carefully worked out by men qualified to deal with the question. But what I have said should suffice to convey to any one a sufficiently clear notion as to what I would like to see established in every district, as far as possible. In addition to the matters enumerated by me, the members of these Councils should have the power to discuss grievances relating to the administration of the district at their meetings, which should be held, say once a month.

"Sir, it is necessary to state that the idea of Advisory Councils formed in a general way the subject matter of a good deal of evidence before the Decentralization Commission. Unfortunately the Commission did not take up the question seriously. If you look at the cross-examination of witnesses on this subject, you will find that there is hardly any cross-examination worth the name. The Commission simply did not care to go fully into the matter. However, that need not deter us from bringing up the question before this Council, whenever a proper opportunity presents itself. The fact has to be noted, however, that the question was before the Decentralization Commission. And on analyzing the evidence given by official and non-official witnesses, Englishmen and Indians, we get the following results. About 68 English officials gave evidence on this subject. Of them, 10 were favourable to the idea of Advisory Councils, nine being in favour of District Councils and one in favour of Divisional Councils only. Among the nine, were two gentlemen, who were members of this Council, the Hon'ble Mr. LeMesurier and the Hon'ble Mr. Quin. I am sorry neither of them is now in the Council, else I should have expected to be supported by them. Nine Members of the Civil Service in favour of this as against 58 against the proposal,—leaving out the late Sir Herbert Risley, who was in favour of Divisional, but not of District Councils—may appear to many to be a small proportion. But, considering that the Civil Service in this country is the standing Conservative party in Indian administration, more firmly rooted in absolute power than the Conservative party in England, I think nine out of sixty-seven is a much more satisfactory proportion than that of the Liberal Peers in the House of Lords who were in favour of Parliamentary reform last year. To my mind, therefore, it is a hopeful thing, that on the first occasion of a proposal like this coming up for consideration, nine members of the Civil Service should be found to be favourable to the idea,—I am not surprised that the rest were against it. Then four non-official Europeans gave evidence on the subject and it is significant that all four were in favour of the proposal. Further of the 84 non-official Indian witnesses who gave evidence, 71 were in favour. Some of them wanted the Council to be more than merely advisory—but, in any case, all in favour of constituting Advisory Councils—and only 13 non-official Indians were against it. When we remember how many public men in this country—I will not say, take their case from officials, but I will say have such humility about them that they distrust their own opinion about any matter, when it comes into conflict with official opinion, it is really surprising that the number of those that went against this proposal was not larger than it was. Finally fourteen Indian officials gave evidence on this question, and of these seven were in favour of the proposal. This too was not unsatisfactory, taking into account the nervousness of many Indian officials in expressing opinions not likely to find favour with their superiors. Thus the overwhelming weight of evidence on the non-official side was in favour of this proposal; and it had also the support of a small but important minority among the official witnesses.

"Sir, I will now say a few words about the more important objections that have been urged against this proposal. I have carefully gone through a great deal of this evidence and I may say that the objections resolve themselves under five heads. In one brief sentence, they really come to this. The officials say:—We do consult people at present, and will continue to consult them; but we will consult whom we please, when we please, and how we please; we do not want to be bound in these matters! The five objections are, first, that informal consultation is better than formal consultation; secondly it is difficult to know who are the really representatives of the people, and it is difficult to get properly qualified representatives for the work; thirdly, the efficiency of the district administration will suffer; fourthly, an Advisory body may be desirable, but there are already District Boards and Municipalities which might be utilized for the purpose; why multiply these bodies? And, lastly, there is the objection which is a standing argument in this country against all advance, namely—the time has not yet come! Now I will deal briefly with these five objections, and then will bring my remarks to a close. As regards the value of informal consultation, well, it is all very well to say that you do not want to be formally tied down, that you like to be free, and that you will go about among the people and find out things for yourselves. On the one side you complain that you are tied to your desks, you are slaves to reports and returns, that you cannot find time to move among the people, and on the other hand you do not want to be bound to consult anybody, you must be free to consult whom you please! Again, Sir, we have plenty of experience of what this informal consultation means, and in this matter we can speak as no English official can, because they have no experience of our side of the Shield. Under the present system of consulting "whom we please," we often find men of straw, men of no character, insinuating themselves into the favour of officials and back-biting innocent people and exercising a pernicious influence. In the end, these things are generally seen through, but that takes time, and meanwhile a good deal of harm is done. And with the frequent transfers of officers that now takes place, we are exposed to this risk far too often. But apart from this, without putting it on that low ground, I say that while the officials may continue to consult whom they please—and my proposal does not come in the way of their doing this—all we want is that they should be bound to consult a body of representative Indians, properly constituted. We want a sense of responsibility to attach to the man who is consulted on our behalf; he must not be an irresponsible, self-seeking person, going to the Collector and expressing views which would just suit the particular mood of the Collector at the moment; he should feel the responsibility of his position and should know that he has a responsibility towards the people. To me, Sir, this argument of informal consultation appears to be the weakest argument that has been advanced against the proposal. Some say that it would be better to hold periodical Durbars than to have a standing Advisory Council. Now we all know what these Durbars are. A large number of people assemble—a hundred or so—and you cannot consult them in that definite manner in which you can do at a small Board meeting. The second objection is that it is not possible to know who are the real representatives of the people. Well, Sir, it is too late in the day now to start an argument of that sort. The Government has accepted the principle of election for ascertaining who should represent different interests in various deliberative bodies, in Legislative Councils, in Municipal Boards, and in district and other Boards. That principle, after all, is the only open test available for testing the representative capacity of a given person. I have already said that the results of election should be supplemented by keeping a certain reserve of seats in the hands of the Collector, and that by nominating deserving persons to those seats, he may redress any inequalities as regards the representation of different interests. And I agree with the opinion expressed by the Hon'ble the Home Member—I do not know what line he will take to-day, but I agree with the opinion expressed by him as Chief Commissioner of the Central Provinces—that if an Advisory Council comes into existence, it must grow out of the present District Boards and my own opinion is that the District Board should elect the major portion of the members of the Advisory Council.



"Sir, the third objection urged against my proposal is that efficiency will suffer. But why should efficiency suffer? I do not propose that the ordinary routine of the Collector's administration should be at all interfered with by the Advisory Council. The Council will meet once a month, and if the efficiency of the Government of India does not suffer by the discussions that take place in this Council—though some officials may think that the time of the Council is wasted by these discussions—or if the efficiency of the Local Governments is not diminished by the discussions that take place in the local Legislative Councils, I do not see why the Collector should want to be more absolute in regard to his charge than the Government of India or the Local Governments. As a matter of fact, I think the efficiency of the District administration will increase and not diminish on account of the association of a body of popular representatives with it.

"The fourth argument against my proposal is that there are already District Boards and Municipalities in existence. Why not use them for Advisory purposes as well? But, Sir, the Municipalities are concerned with particular towns only. As regards District Boards, my own view is that the districts are really too large as areas for the purpose of local self-government, and I should like to see local rural self-government entrusted almost entirely to Taluka or sub-divisional Boards and to village panchayets, the District Boards confining themselves to work of a general character only. If this were done and the constitution of the District Boards modified, I should not mind entrusting those Boards with the functions, which I have in view, for Advisory Councils. But that is a different question and I do not want to complicate matters by going into it just now. The District Boards at present look after education, sanitation and roads. If the Government is prepared to widen their scope of work, and entrust other functions to them in addition, I have no objection. Lastly, we are told that the time for such a reform has not yet come. That, Sir, is an argument with which we are only too familiar. In the opinion of some officials, the time for *any* reform never comes, and yet somehow it does come and reforms do take place! And, Sir, what has happened in the past about other matters will happen in the case of this also; and in spite of official opposition the time for this reform will come.

"Sir, one word more in conclusion, and I have done. I contend that the association of a Council, such as I propose, with the work of district administration will, instead of impairing the efficiency of that administration, greatly increase it. For it will bring to it that higher efficiency, which results from the responsible participation of the people in the management of their own affairs, and which can never be attained by a purely bureaucratic administration, however like a machine it might move. District administration, moreover, is the real ground of contact between the bulk of the people and the British Government, and our Legislative Councils, expanded as they are, will not fully serve the end, for which they have been reformed, unless that reform is supplemented by the creation of Advisory District Councils and their association with the officers in charge of districts. Sir, I have already urged at some length that in the interests of the administration itself, the educated classes of this country should be given an interest in the work of that administration. What they feel is, if I may quote what I said before the Decentralization Commission, that the car of administration should not merely roll over their heads, but that they should be permitted to join in pulling at the ropes. This is a perfectly legitimate aspiration, which, I am convinced, the Government must recognise, if not to-day, at least in the near future. Sir, in a most remarkable article which recently appeared in the *Times of India*, on the Royal visit, that paper said that British rule in this country owing to its inherent necessities must be a continuously progressive principle. That, I think, is a profound truth, a truth which should be kept constantly in view by those who are responsible for the administration of this country. It is only by doing this that the Government will be able to adjust itself to the growing complexities of the situation. Thus and thus only, will the Government equip itself for overcoming the difficulties that are bound to gather in its path from time to time. Thus and thus only will the better mind of India be justified in the trust that it has always felt in the higher purpose

of British rule; thus and thus only will the people of this land—ancient races to whom the world owes a good deal of its civilisation—be able to advance with slow but sure and steady steps to a place in their own country, worthy in accordance with modern ideas of the self-respect of civilized beings.”

**The Hon'ble Sir Gangadhar Rao Chitnavis :** “ Sir, I have heard with great interest the very eloquent speech of my friend, and I thank him for the compliment he has paid to my class and myself. I had hoped I would be able to change the attitude which the terms of his Resolution induced me to assume. I am sorry, however, with all respect for his opinion and arguments, my views still remain unchanged. I regret I have to oppose this motion. This subject was fully examined by the Decentralization Commission, and the considered opinion of that body was against the scheme of Advisory Councils. The question was again discussed in connection with Imperial and Provincial Administration in 1908, but the idea of Advisory Councils did not find much favour with the Secretary of State. Very weighty reasons must be present to induce Government to reconsider the position. The Legislative Councils have only recently undergone considerable expansion, and non-official members have been given larger powers of interference in the Government of the country. It is too early yet to draw any general conclusions about the influence of the “ reforms ” upon the administration. A further advance in self-government of the nature contemplated in my friend's Resolution so soon after the reconstitution of the Legislative Councils will be an ambitious experiment which will stand for its justification not upon any success already attained, but upon abstract principles which can only be successfully applied to more advanced conditions of social existence. I believe in no country is the District administration carried on by a body of Councillors. In a democratic government all power lies undoubtedly in the hands of the people, but the executive work of every-day administration must be, from the necessity of the situation, left to officers who are responsible for their actions to the Provincial Council on which the representatives of the people rule. We must seek to influence the general policy of the administration, and correct individual lapses by interpellation and, if need be, by Resolution in the Legislative Councils. With greater public spirit, self-assertion and devotion to duty the opportunities now afforded us should be sufficient to enforce the popular will even upon the District Officer. However autocratic and unsympathetic a District Officer may be, he cannot go violently and systematically against the expressed wishes of the people of the district. His isolation would be intolerable if he does not leaven his administration with them. Everybody wants to be popular; that is a human weakness which supplies a corrective for absolute autocracy. Despotism has its limits, and cannot afford to persistently disregard the wishes of the citizen.

“ The difficulty now arises from a deplorable absence of broad-minded citizenship, of an enlightened and altruistic interest in the weal of the community and of spunk among the people. The best devised system of representative government will fail in such circumstances. We want the right sort of material to interpret correctly, and enforce upon the administration the will of the people more than any additional machinery.

“ Sir, three considerations appear to me to discredit the suggested scheme of district administration. The inevitable division of responsibility, while hampering the District Officer, would secure him an immunity from blame which is highly undesirable. It is conceivable that a tactful District Officer, if he is so minded, can use the Advisory Council as a buffer, and may indulge in the fullest autocracy with the apparent sanction of the people's representatives. On the other hand, the best plans of Government may be wrecked by unintelligent and shortsighted local opposition. In the present state of social development such contrary results are incidental to the proposed arrangement, and are imminent dangers of which note must be taken now. My long and intimate association with municipal and rural administration has given me an insight into administrative details of the district, and I am impressed more than ever with the necessity of maintaining intact the District Officer's authority. An Advisory Council, without having any good practical



results will be a clog in the district administration. Any District Officer who is worth his salt would under any conditions seek the advice of local leaders. As a matter of fact, District Officers do consult these. But the formation of Advisory Boards on a constitutional basis would be subversive of the present wholesome arrangement, and would give the members an opportunity to interfere and obstruct which is likely to lead to friction and delay. Besides, where are the men who would take an intelligent interest in the business? It is notorious that on Municipal and District Councils the members in many places do not evince that amount of public spirit as can make them a success. The reason ascribed is that they have no *real* power. A purely Advisory Council cannot have greater attractions. It is premature to think of giving District Advisory Councils any *real* power. The Hon'ble Mr. Gokhale does not even suggest that they should have any powers beyond offering advice to District Officers. How many members in such circumstances would take any *real* interest in administrative matters on which their advice is sought? Nothing has happened to induce me to change the opinion about these Advisory Councils I expressed before the Decentralization Commission. The experiment should be made in the division. The Divisional Commissioners may be given such Councils in selected areas, where the culture and enlightenment of the general public justifies the hope that the Councils will be something more than lifeless bodies. Mr. Gokhale has suggested that a Council of nine members may be appointed which should hold its meetings once a month or so, and give the benefit of its advice to the District Magistrate whenever he seeks it. But such Councils formed on an elective basis will have the inevitable result of destroying social amity, and of fostering among the people not yet far advanced in education a factious spirit which can do little good. Already there is a good deal of party feeling; it will be unwise to increase its volume. The present machinery of the Municipal and District Councils even now serves the purpose mentioned by my Hon'ble friend, and their advice in many matters is even now availed of by some District Magistrates where such consultation is thought necessary and desirable.

"With these few words, I beg to oppose the Resolution."

**The Hon'ble Mr. Mudholkar:** "Sir, it is with some surprise that I listened to the speech of my friend, Sir Gangadhar Rao Chitnavis. It was only yesterday that I refreshed my recollection of the evidence which he gave before the Decentralization Commission—evidence which was given when I was present and which I considered was in favour of the general idea of Councils. I am extremely surprised by what he has just said and must say that what according to my recollections he then urged is opposed to what he now says. I have refreshed my memory by reading his whole evidence and I find that he was then distinctly in favour of the idea of an Administrative Council. The idea underlying the Resolution is that the responsibility of officers, who come below the provincial Governments, (both the responsibility and the heaviness of the charge), has increased so much, and work of such delicate and important a character is now being assigned to Divisional Officers and to District Officers, that it is necessary that they should receive some relief and that they should also receive popular co-operation. With that view of the thing he was then in agreement. It is true that he considered that the best form in which popular co-operation could be got would be in a Divisional Council, but whether it is a Divisional Council or a District Council is a mere matter of detail and not a matter of principle. The question is, are we to carry further the principle of associating the people in the government of the country. What is pleaded on behalf of this motion is that circumstances have so changed, that the complexities of administration have increased so much, that for the mere efficient performance of duties, it is necessary for the Government to have the advice and help of men belonging to the country. It is on this principle that the present motion is made. It was on this principle that the enlargement of Councils was advocated. It is on this principle that provinces which have not got a Legislative Council have been asking for a Council. In the agitation which has been going on for a Legislative Council for Central Provinces and Berar nobody in the Central Provinces took keener interest than my friend

Sir Gangadhar Rao Chitnavis. He presided at one time over the Central Provinces and Berar Provincial Conference, and one of the chief matters which was dealt with in his interesting address was the creation of a Legislative Council for Central Provinces and Berar. Now why was that demand made? That demand was based on the ground that government without the help of the people was very often government carried on in the dark. With the best wishes, with the sincerest intention of doing nothing but good to the people, officers, howsoever well-informed they might be, are apt to commit mistakes. They must have the popular view and some true indication of what the people's ideas and aspirations in the matters which come before them are; and it is an advantage to them to know these things. That was also the basis on which, according to my recollection, my friend put the case for a Legislative Council for Central Provinces and Berar. Well, that same principle applies here now. We have got the Supreme Legislative Council; we have got in the other provinces Provincial Legislative Councils; and in our own province, God willing, we shall have a Provincial Legislative Council before this year closes. Now, the same reason the same necessity which required the establishment of a Provincial Legislative Council, that same necessity of the advice and local knowledge of men belonging to the people should also be at the disposal of Government. We can also take a still higher stand and that stand is that what we demand is in consonance with the very fundamental principles of British government; fundamental principles which have only the other day been emphasised to us in a manner in which few things have been emphasised. We had in the Delhi Proclamation the assurance given to us in the noble words of our Gracious Sovereign that the people will have to be associated more and more with the work of Government. Now, that was not certainly meant to be a mere lip assertion. It is what his great predecessors have also said and what is the deliberate policy of the British Parliament and of the Government of India. Now, it is that great principle on which we have a right to take our stand. It is necessary for us to place our case on both these points, namely, the question of principle and also the ground of expediency. We say that this is a thing which is good both for the Government and the country, because it would carry out the assurances and the pledges which have been given by three Sovereigns, by the Parliament and by the Government of India. Now, the question is asked, will it do any good, will any useful purpose be served by creating such a Council. In regard to that, let us see what is the position of the present District Officer. The present District Officer has now far greater powers than his predecessors of the sixties had, and yet it was in the sixties that the foundations of Municipal Government were laid. This step was taken because the Government considered that the duties which lay upon the District Officer were so multifarious, so complex and, at times, of such a delicate character, that he must have greater time for carrying out those duties; and this could only be done by relieving him of the work of an ordinary detailed character, pertaining to localities, to the towns and villages of his district. These are the circumstances under which Municipal Government came into existence, namely, to afford relief to District Officers. Along with that consideration the idea also existed that it was necessary to enlist the co-operation of the people of the localities in the management of their parochial affairs. It was thus that municipal life was introduced into India, and it is on this same principle that the rural boards were constructed. A further development and carrying out of this idea, the carrying a step further of the principles on which local institutions originated, is the principle of election. The principle of election was introduced in these bodies on the very obvious ground that when you want to find out a representative of the people, the most effective way in 99 cases out of 100, is to ask the people who have to select a representative to make a selection for themselves. A man acting for himself is in the majority of cases more likely to be right than others desirous of acting for him. That was the basis on which the principle of election was put and that was the *raison d'être* of the policy carried out in the years 1882 to 1885 under which we have our enlarged District and Municipal Boards. Now, these bodies do give a voice to the people in the management of some of their local affairs, and in them under supervision



exercised by the District and Divisional Officers and by the local Government they are enabled to carry out some of the work of their towns and villages. But there are matters of far greater importance which remain to be touched. Here in the Imperial Legislative Council matters belonging to the whole country about the revenues to be raised and the laws to be enacted and so on are dealt with. In the Provincial Council are dealt with matters in which the districts of the province generally are concerned. But there are subjects in which the district is vitally interested. And in regard to these the whole power, the whole responsibility and the whole burden has to be thrown on the District Officer alone. Sir, in the evidence which was given by the Chief Secretary to the Central Provinces Government it was pointed out that the idea of the Central Provinces Government was that the District Officer was to be the pivot of administration. Now, that represents an aspect of the proposal that Mr. Gokhale has brought to the notice of the Council. He says that by the very exigencies of the situation the District Officer is becoming far more important than he ever was. Sir, if he is to be the pivot of administration and if the activities of the different departments of the district are to centre round him, how is it possible for him to carry out all these things without help. I do not wish to relate all the instances which were given in the course of the examination of the Chief Secretary to show exactly what he meant. He showed that in regard to matters entrusted to the Public Works Department, matters belonging to Excise and Forest administration, to Sanitation and to Education; in regard to all the activities in the district the District Officer was to exercise a general superintending and controlling power, and that no important steps were to be taken without his consent. Among other things, what was complained of was this—that a certain number of roads were noted as necessary for a division or a district. Generally, the officers of the Public Works Department consulted either the Commissioner or the Deputy Commissioner. But it often happened that a work was entered in the programme one year, next year it was found that the programme was altered and the work cut out for the year. Now it is on these grounds that they consider that the District Officer who knows more of his district, who has the interest of his district more at heart, who looks at every question from a general point of view and not merely from a departmental or a technical point of view, it is for that reason that a District Officer is to be given the commanding position that the Central Provinces Government pleaded for. And if that position is to be accorded to him, as in my opinion also must be under the circumstances which have arisen;—because we now find that therewith delegation of several powers by the Imperial Government to the Provincial Government, and from the Provincial Government functions will have to be delegated to the District Officer if the District Officer is to be the pivot of the administration—then it has become incumbent and necessary more than ever that he should have not only relief in regard to purely routine matters, but that he should have assistance, co-operation, help and advice, from persons belonging to the different departments, as also from persons who represent the wishes, the desires and the aspirations of the people. The very essence of the British Government is the improvement of the Indian people. It is for the good of the people that all the various functions which are assigned to the District Officer are to be carried out. And as in all these matters it is now an accepted principle that the wishes of the people should be ascertained, that it is an advantage to have the opinion of the people on such matters, and that the most effective way of obtaining an expression of their views is to give them an opportunity of selecting their representatives for themselves; and if all these principles are admitted in the matter of provincial and imperial interests, I fail to see how the same necessity does not exist in the matter of district affairs. If anything, I think it is more necessary. There are numerous matters of an executive character on which even now the District Officers have to consult non-officials, and what we urge is that, instead of advice being taken from irresponsible persons who, for aught we know, may not be qualified, it is best that he should have responsible advisers on all matters requiring consultation and advice.

“ With these words I strongly support the Resolution.”

**The Hon'ble Mr. Muhammad Shafi:** "Sir, as all the Hon'ble Members are well aware, the proposal embodied in the Resolution moved by my Hon'ble friend was one of the subjects of enquiry by the Royal Commission on Decentralization. The Hon'ble Mr. Gokhale has given us to-day an analysis of the evidence then recorded and I venture to think that that analysis forms an excellent index of public opinion in this country with reference to the proposal put forward by him. So far as my Province of the Punjab is concerned, I think I am justified in saying that there was an absolute unanimity of opinion so far as the non-official evidence as recorded by the Decentralization Commission in that Province is concerned. Among the supporters of the proposal were ranged aristocratic ultra-loyal land-owners like my friend the Hon'ble Captain Malik Umar Hayat Khan, politicians of the Congress school like Mr. Harkishen Lal, Barrister-at-Law, and moderate liberals such as the Hon'ble Mr. Shah Din (now Mr. Justice Shah Din) of the Punjab Chief Court, who was then President of the Punjab Moslem League. And, if I may venture to include myself among the class to which Mr. Shah Din belongs, when examined before the Commission as a witness on behalf of the All-India Moslem League, I too gave my hearty support to the proposal embodied in this Resolution. With your permission, Sir, I propose to read to you the opinion I then expressed with reference to the establishment of District Advisory Councils.

'The establishment,' I said, 'of District Advisory Councils, would, in my opinion, be a step in the right direction. If properly constituted, these Councils would prove a source of immense benefit to the proper administration of district affairs. The functions of the Council would of course be purely advisory and consultative and the liberty of action of the District Officer would in no way be hampered or curtailed, but he would, through the medium of these Councils, keep himself fully acquainted with the local circumstances as well as with the views and feelings of the people as regards any administrative measure which may be contemplated. Moreover, the district officer will be in a position to make use of this agency for the purpose of removing any misapprehensions that might exist in the minds of the people with regard to the intentions and motives of Government in connection with proposed administration or other reform. These Councils should be so constituted as to be thoroughly representative not only of all the dominant agricultural and other interests, but of the various communities as well. Thus constituted, the Council may be consulted by the District Officer in questions relating to sanitation, education, police arrangements, plague measures and other matters concerning the general administration of the district.'

"This was the opinion I then ventured to express with reference to the proposal which has been put forward in this Council to-day. Over three years have passed since then, and further experience of public affairs, and a closer study of the political conditions in this country, has more than ever confirmed me in that opinion.

"Sir, in the cadre of the Indian Civil Service, to my mind, there is no office of greater importance—of importance not only to the welfare and contentment of the people, but of importance to the popularity and the good name of the British Government as well—as that of the head of a district. He is in the eyes of the people of the district the ostensible symbol of a great and invisible *sircar*, and the people of the district look up to him as their *ma-bap*. A complete understanding on his part, therefore, of the wishes and the feelings of the people, and the existence of a complete understanding between him and the people in his charge, is an essential element in the proper administration of the affairs of this country. On the other hand, it is principally on his reports that the Government ultimately arrive at a decision with reference to any administrative measure that may be in contemplation, and it is upon the reports which he sends up as to the wishes and the feelings of the people, as to the necessities of the situation and as to the requirements of the public, that ultimately the policy of the Government is moulded. In those circumstances it is absolutely essential that his knowledge of the prevailing conditions amongst the people in his charge should be of the closest and the most intimate description. I can conceive of no better means of bringing about such results than the establishment of District Advisory Councils. Properly constituted, these Councils can be of the utmost advantage to the proper administration of the affairs of this country. I



have no doubt if the Government comes to accept the Resolution, whether now or hereafter, it will take particular care that these Councils are properly constituted; for, to my mind, these Councils can be of use to the District Officer in the proper administration of the affairs only if all the various important elements in the population of the district are properly represented, and it is in view of this most essential feature, this most essential requirement, that I think the manner in which the Hon'ble Mr. Gokhale has worded his Resolution with reference to the number of the members thereof, seems to me open to objection. I could have well understood if he had stated that a Council should be constituted of not less than a certain number of persons; but I cannot understand the logic of putting it in this way, "not more than 9 persons." It seems to me that the number of members of this Council must vary in proportion to the number of population of a district, the number of interests which are to be represented in these Councils, and various other essential requirements of the situation, and, in consequence, to lay down a negative limit of that kind, "shall not exceed" a certain number, seems to me to be a wrong way of dealing with the question. Well, Sir, when a new member of the Civil Service comes to a district for the first time, he is absolutely ignorant of the existing conditions of the district which has been placed in his charge. The existence of an Advisory Council will place at his disposal a ready-made machinery through the means of which he can acquaint himself with the conditions of the district of which he has been, for the first time, placed in charge, within a comparatively short time. Under the existing conditions experience shows that it takes him several years to acquaint himself thoroughly with the prevailing conditions, and probably before he has thoroughly acquainted himself with the circumstances of the district and the wishes and the feelings of the people, he is transferred to another district, and the result is that the efficient administration of district affairs is impaired in this manner. Sir, there are in various parts of the district, in villages, feuds between different classes of the people: there are men who are habitual receivers of stolen property; there are men who are habitual offenders. As you know, corruption prevails amongst the subordinate officials. Well, this District Advisory Council would be very useful indeed to the Collector in removing these evil effects and in taking proper action in order to bring about the desired state of things. To say that the Collector, even in the existing circumstances, does consult a certain number of leading persons, I submit, is no answer to the proposal. Who are the persons whom he does, in the existing circumstances, consult? Those who are thoroughly acquainted with what goes on in the districts know full well that the persons consulted by Collectors do not really represent either the needs or the wishes of the people or the class of persons whom really the Collector ought to consult. It seems to me that in more cases than not the persons who are consulted by the Collector probably have been recommended to him by the tehsildar or perhaps their names have been mentioned to him by the superintendent of his vernacular office. He sends for these and talks over matters with them. Well, I venture to submit that these are not really the class of persons who can give expression to the real needs and feelings of the people, and, in consequence, I am thoroughly in sympathy with the proposal that a portion at least of the members of these Advisory Committees should be the elected representatives of the people of the district. I am not prepared to go so far as to say that two-thirds of the members should be elected. I think that as an experiment, a portion only—and that portion to be determined by rules to be framed hereafter with due regard to the circumstances of each district—a portion only should be elected and the rest should be nominated. But here again I differ slightly with the Hon'ble Mr. Gokhale. I do not think that the nomination should rest in the hands of the Collector, but that on his recommendation the Commissioner should nominate the members. Because, if the nomination also is vested in the hands of the Collector and the Collector alone, possibly the nominated members will not be able to express their opinions with that independence with which they will if nominated by a higher authority. It seems to me, Sir, that looked at from every point of view, the establishment of these Advisory Councils will be conducive not only to the welfare of the people themselves, but conducive also to the popularity and good name of the British

Government amongst the masses. And it will bring about, between the ruler and the ruled that complete sympathy, that mutual understanding of each other's motives of action which is in the highest degree beneficial to the prosperity of the people and to the good name of the Government itself."

**The Hon'ble Pandit Madan Mohan Malaviya** :—"Sir, I beg to support the motion which has been put forward by my esteemed friend Mr. Gokhale. I think, Sir, it will be conceded that there can be no objection in principle to the motion. The principle of associating representatives of the Indian people in the executive administration of the country has been rightly and wisely established by the Government. The Secretary of State was first pleased to appoint two Indian gentlemen as members of his Council; then a member representing the Indian community was appointed to the Executive Council of the Government of India; and now in the provincial Governments of Bombay, Madras and Bengal, we have members representing the Indian community associated with the European members of the Executive Councils in carrying on the administration. The Legislative Councils were constituted to allow people to give expression in open Council to the wants and wishes of the people: but the association of Indian members in the Executive Councils and executive administration throughout these higher grades, is evidence of the fact that the Government recognise the value of the principle that Indians should be taken into the confidence of the Government in the innermost recesses of administration. That this wise policy has been deeply appreciated by the people, it is not necessary for me to say. I am sure that the Government will agree that the gratitude that has been felt for this measure throughout the country cannot be exaggerated.

"The question then, Sir, is whether the policy which Government have found it useful to adopt in relation to higher executive administration should not also be adopted even in the limited way, in the district administration. The district administration is a very important unit,—it is the most important unit of the administration in the country. The provincial governments deal within the administrative affairs of the whole of their respective provinces in a general way. The Commissioners are also officers who supervise; they are channels of communication between the district officers and the provincial governments; but the district officer is the representative of His Majesty in the district whom the people best know, and it is the action of the district officer which most impresses the people of the district. In many matters the acts of omission or of commission by which people benefit, or of which they complain, proceed from him and generally have to be regulated and determined by him. The responsibility which rests upon his shoulders cannot therefore be exaggerated; and the question before the Government raised by this resolution is whether it would conduce to make the district administration more beneficial and more popular if a few chosen persons are associated with the district officers in administering the executive affairs of the district. I submit, Sir, that the principle not being objectionable by the nature of the case and being supported by the reforms which the Government have been pleased to adopt, the only question that arises is, whether the measure proposed will be a beneficial one, beneficial in the interests of the Government and beneficial in the interests of the people. I venture to think that it will be beneficial in the interests of both. There is absolutely no question of prestige involved in this matter. When the Government of India have representatives of the people associated with them in this and their Executive Council, it cannot be said for a moment that it will take anything away from the prestige of the Collector or the Magistrate if he has some Indians—but not necessarily Indians only—some non-official representatives of the people of different classes associated with him in the work of administration. It will on the other hand make his work more efficient. There are questions which often arise in which the Government hold that the Collector ought to consult the representatives of the people in his district. The Decentralization Commission recognised the utility of this course. They noted with evident approval that several Collectors



did consult representatives of the people on public questions. One member, Mr. Meyer, wanted this practice of consulting the representatives of the people to be made general; another member of the Commission strongly recommended the creation of Advisory Councils so that such consultations should be held in a systematic and regular manner. It is unquestionable that among the matters which come before district officers there are many in which the advice of the representatives of the people must be very helpful. The practice which is followed at present is that of consulting some members of the district boards or some other persons whom the Collector may in a haphazard manner select. The proposal put forward before the Government will if accepted, make it possible for him to have a carefully selected body of individuals always available to him for consultation on matters on which he may consider it advisable to consult them. It being admitted that there are many matters in which the advice of the representatives of the people would be useful, I submit, Sir, that there ought not to be any difficulty in recognising that it is better to have a regularly selected council or committee available for consultation than that consultation should be had from members selected for the occasion without any regularity, without any rule.

"It has been said that informal consultation is the best. I fail to appreciate the value of this argument. If consultation is desirable, it seems to be best that it should be had with the best persons available in the district. Now, how is the Collector to know who are the best persons for the purpose? It has been said that he can choose his men from the Durbar lists—it is so suggested in the Minute recorded by the Lieutenant-Governor of my province—and from among members of the District Board. I submit, Sir, that in such cases though it is possible that some of the persons selected may be very good men whose advice would be valuable, it is equally possible that they may not be men who would speak out their mind independently to the Collector; they may not be able to give proper expression to the views of the people—I do not say that they will necessarily not be able to do so—and, therefore, Mr. Gokhale has proposed that at least two-thirds of the Council should consist of elected members. The number may be varied if Government does not consider it proper, but, not less than half the number of the council should be elected by the people, and not more than half should be nominated by the Government. If such a committee is constituted, I submit that the consultation which is admittedly desirable will be had in the best circumstances and with the best possible results. It is no reflection upon any of the Collectors when I say that when difficult questions arise in the solution of which no help or guidance is provided for them they are not unoften hard put to it to decide what is the right course to follow. I know instances in which Collectors have been led into serious blunders for which the Government have come in for much blame, and which blunders would surely have been avoided if there were a committee of responsible men to advise the Collector as to what course he should have followed. In such matters secrecy cannot always be preserved regarding the action of Collectors. In these days of the newspaper press and the institutions which the Government has been pleased to foster, secrecy is practically out of the question. One mistake made in a district gets into a dozen papers, a question is put in the Imperial or Provincial Council, and the whole thing is laid bare before the public. If you have a certain number of responsible men to advise the Collectors, I agree with my Hon'ble friend that many of the matters which find their way into papers and Councils at present would never be heard of beyond a limited circle in the district, and that, I submit, Sir, will be a great gain to the administration. Mistakes committed will be easily rectified. As matters stand at present sometimes people have to write a good deal to the papers about a mistake made, to agitate and to have questions put in the councils, and even then redress does not come. The matter having gained publicity there is a certain amount of feeling that the Collector must be supported publicly even if a reprimand is administered to him in a demi-official. Now, that creates a bad impression, and Government has come in for unfavourable criticism owing to its desire to protect an act which has been done by an officer *bona fide*, and owing to the desire not to punish an officer

who has clearly erred. But if the course recommended is adopted, such mistakes will be avoided or easily cured by the co-operation of the district council.

So far, then, as the Collector is concerned, it will be a distinct gain to have this regular body provided. So far as the people are concerned, it will also be a great gain. The grievances which might arise—an administration is after all a human administration and blunders must now and then take place—the blunders that might arise will speedily be rectified, the people will feel that they have got some gentlemen in the Council who, if they knew the facts, can easily and formally represent them to the Collector, and that the question would be soon considered and satisfactorily disposed of. I think, Sir, that it will give greater popularity to the Administration than any other course that can be adopted. For these reasons I strongly commend the resolution to the acceptance of the Council."

**The Hon'ble Sir Vithaldas D. Thackersey :** "Sir, I beg to support this resolution. I entirely agree with what the Hon'ble Mr. Gokhale has said that what we most require is 'government on the spot'. I will not deal with the general question of the advantages of having a representative body associated with the Collector because those advantages have been so very strongly urged and so very ably backed up by the previous speakers. I will put before the Council only one aspect of this question, which I consider very important, *viz.*, the advantages which our villagers and people in the district will gain in actual practice by the creation of this advisory council. I was touring about for some months in the Deccan in connection with my work of Cooperative Societies, and what I found there was that whenever the villagers have any grievance, whether about the police, about their land, about irrigation and so on,—there are several grievances of these small people—and if they think that the Collector is a person who cannot be approached, they have to go to the Sherestadar, to the head clerk, to the Karkuns, and all those underlings; they were practically in the hands of such people who took full advantage of their ignorance. Now if these villagers and the ignorant people in the districts, could go to some representative men in the advisory body, who could carry their grievances to the Collector, they would acquire some confidence, they would go to their own trusted men and practically speaking such occupation of the underlings would be gone. People would get more and more confidence and the difficulties that have been often placed before us about police administration and so on will to a great extent disappear. We are told that these people are very ignorant, that when a small peon or police sepoy tries to take advantage of them, they give way instead of standing or opposing him as in other countries. Well, here, if villagers have their own representatives, the work of the Government will be much more easy in actual administration. I will not take up the time of the Council. I have only put forward this one aspect of the question."

**The Hon'ble Sir Reginald Craddock :** "Sir, in opposing this Resolution I wish to lay very particular stress on the terms in which it has been couched. Mr. Gokhale desires that district administration should be brought into closer contact with the people. I do not quarrel with that desire. In fact I have the greatest and fullest sympathy with it. I come from a Province in which close touch with the people has always been regarded as the greatest desideratum of the administration, and that not only among district officers but for all officers of the Government. It is when I come to the means that Mr. Gokhale indicates by which he would attain this desired end that I find that I must totally join issue with him. Mr. Gokhale's scheme, as you have heard, is as follows: He desires to provide every Collector with a Council of nine whose functions should be merely advisory to begin with—I shall refer to that phrase 'to begin with' later on—and whom the Collector should ordinarily be bound to consult in all important matters. Some of these Councillors—he has indicated about two-thirds—should be elected, he has not stated by whom, and some should be nominated, he said, by the Collector; but other Hon'ble Members who have spoken suggested that the Collector could not be trusted to nominate them, for



if the Collector nominated them, they would be too much afraid of the Collector to give an independent view. Well, that is Mr. Gokhale's scheme. It sounds very pleasant and very attractive. It is a very pretty picture that he has drawn for us, and it seems to have captivated the imagination of many of the Hon'ble Members of this Council who have spoken so far. Now I am very sorry, sympathising as I do with Mr. Gokhale's object, that it should fall to my lot to do my very best to shatter this pretty picture that Mr. Gokhale has presented.

"Now, Sir, to begin with, there is a radical misconception about the whole suggestion. There is no analogy whatever between the work done in the Imperial and Provincial Councils and the work done in the Collector's office. They are on entirely different planes; the two former Councils, dealing with large questions of policy, with measures which will affect the people for weal or woe, should be as far as possible impersonal and disinterested. The Collector's work is totally different from that. He is an executive officer. It is not for him to determine policies but to carry them out. He has to apply those policies to concrete times and places, to concrete cases and concrete individuals; and the deliberations which would take place in his Council would be of a different character to those which take place in this Council or in a Provincial Legislative Council.

"Before I proceed to go further into the possibilities and the practical aspects, of constituting Councils which Mr. Gokhale has suggested, I would just like to refer to some of the objects that according to him would be gained by these Councils. He is unable I may remark to give me any particular instance in any other country in which any person corresponding to the Collector has a Council of this description. I quite admit that he has referred to the case of Prussia. He has no knowledge of the affairs of Prussia beyond what he has gained by books, and I have no knowledge either. Well, Sir, I did not gather from his perusal exactly how matters stood in Prussia. I am not quite sure whether the Prussian Collector is associated with a special Council merely to advise him or whether he is simply working with local bodies. But I noticed one thing, that Mr. Gokhale suddenly changed the subject and put the book down, when he came to what appeared to be a strong combination between the judiciary and the executive in the Council in Prussia. Now the objects to be gained, he says, are that things should be done on the spot. The term 'on the spot' might mean a great many different things. To the Secretary of State we are on the spot in Calcutta, at present at all events. To us in Calcutta the Lieutenant-Governor of whatever Province it may be is on the spot at the headquarters of the Province. To the Provincial capital the headquarters of a district is 'on the spot,' but I emphatically disagree with the statement that the headquarters of a district is "on the spot" for the purposes of these matters that we have to discuss. One of these advantages which the Hon'ble Mr. Gokhale has put before us is therefore wholly illusory. His Council of educated men on the spot are not on the spot in 99 out of 100 cases dealt with.

"Next the Hon'ble Mr. Gokhale refers to greater expedition. Well, Sir, it may be that owing to Secretariat demands and correspondence and so on, a Collector has been of late years unduly hampered, and one of the great objects of Government and of the various administrations has been to reduce as far as possible the impediments and delays which result from interference or too much correspondence from the Secretariats. But I appeal to any Hon'ble Member of this Council to tell me whether he thinks that the provision to the Collector of a Council with whom he has to meet every month,—that is the time he has mentioned—(and if they are to deal with the business, they will have to meet much more often), that the time taken in discussion with them, in talking them over, in recording their decisions and sending them up to Government with a strong note saying why he disagreed with them, whether all these delays inseparable from a Council of that kind, would have the desired effect upon which Mr. Gokhale has laid so much stress—greater expedition.

"Then, Sir, there is another point. The Hon'ble Mr. Gokhale talks to us about the sympathies of the educated classes. He seems to think that this Council of nine would bring into play the sympathies of the educated classes which are now, he says, practically non-existent.

"There is nothing that surprises me so much in all the speeches that I have heard as the apparent contempt with which the speakers have referred to such bodies as District Boards (I call them Boards and not Councils, because Mr. Gokhale has appropriated the term District Councils) and the Members of District Boards and Municipalities. They have said it is true that the Collector may find advisers in these bodies, but that they cannot be trusted to represent the people. Where then is the man to be called their own man that could be entrusted with such responsibility? I should like to remind you that the solitary supporter that I have at present, the Hon'ble Sir Gangadhar Chitnavis, is a man who has served for many years as President of the Municipality and District Board, and who has been for many years a Member of the Imperial Legislative Council; and if there is any man in this room who has served his own Province as well as Sir Gangadhar has served the Central Provinces, then I say he may well be proud of it. I know well that Sir Gangadhar Chitnavis has not merely served the interests of Government, he has also served in the very best sense the interests of the people, and local bodies should have upon their Boards men of the character of Sir Gangadhar Chitnavis, and I may add the Hon'ble Mr. Mudholkar, who is a leading member of the Amraoti Municipality. If they have members like these, they are perfectly well fitted to give such advice to the Collector as they may desire on all local matters upon which he may want it at head-quarters.

"Then, Sir, another point to which the Hon'ble gentleman has referred is the fact that the Collector has naturally at his hand no educated adviser to give him help in interpreting the wishes of the people. I cannot for a moment believe that these Hon'ble gentlemen really mean what they say. I do not think they have considered sufficiently the interpretation which follows on statements of the kind they have made. They have absolutely and completely ignored that the whole class of men who fill the posts of the Provincial Service are educated. Are they totally unfit to interpret the educated views of the people to the Collector? And if they are to be set aside, then where are these men who are not subject to these disabilities to be found? In the Imperial Legislative Council there are men who are capable of giving advice and are advising Government on large policies. But they will probably not be available for serving on the Council of the Collector. Thus it appears to be urged that there are some mysterious persons somewhere between, who can neither find their way either on the Imperial or Provincial Legislative Council, nor are they to be found on Municipal Committees and District Boards. These mysterious persons are really the men who are at all times ready to advise the Collector and from whom presumably the Hon'ble Mr. Gokhale would wish to constitute his Council.

"Now, Sir, let us come to the practical step of choosing these nine Councillors. Before the Decentralization Commission, Mr. Gokhale indicated that they could be found in Poona and he had some hesitation about other places, though he thought that he would probably get the right sort of man in time. That is the general purport of what he said, and supposing now that we take him with us to some of the smaller towns, supposing Mr. Gokhale and I had agreed that we should go to some of these smaller towns, and select our Council of nine. Well, I suppose that we shall have to put three lawyers on that Council; they are, as he said, the most enlightened members of the community. I am not quite sure that he said it, but that they are among the enlightened members of the community no reasonable man can deny, and they are a class of people who are probably more often available, because their time is not always taken up on the District Boards and Municipal Committees, so that probably about two or three of them would have to be drawn from that class. Then we must certainly have two or three of the landowners' class, because these are the most important interests represented. I feel perfectly certain that Muhammadans would ask for one or two members; and the interests of education which the Hon'ble Mr. Gokhale has so much at heart would make it expedient that there should be one member thoroughly conversant with the subject; a schoolmaster or professor who is not in the service of the Government would be required. When you have got these, you have exhausted the vacancies in your Council if it is restricted to nine as Mr. Gokhale has suggested, and



you will still find that numerous other interests have yet to be represented. It is impossible to find places for those men and we shall have to come to the conclusion that their only representative on the Council would be the Collector himself. I am not sure that that is not an entirely correct view of the matter. I think it is very often the Collector himself who represents in the strongest sense all those large communities which do not and are not able themselves to appear in Councils. Well, Sir, then there is another point. Mr. Gokhale has said that the Collector can have as much free consultation as he likes and that these Councillors would not interfere with that. But the whole essence of his Councils are that these persons shall be representatives to interpret the feelings and opinions of the people of the district. Well, Sir, if I am the Collector and if I can go and talk to the raiyat, if I can go to the raiyat himself, if I can go and talk to the weaver or to the artisan or any class you like to mention within the district, why should I go and employ some other people to go between and get their answers to me and put my questions to them. I go straight to the spot myself and make these inquiries. For years I have kept up this practice myself and I know there are many district officers who make it a practice of consulting people on the spot, not the spot indicated by the Hon'ble gentleman, but the spot from the point of view of the headquarters of the district.

"And where would he obtain those Councillors from? Would they be drawn entirely from headquarters? Or would they be drawn from the district? Now I think I have indicated to the Council that to obtain them wholly from the headquarters would be a mistake, and the Hon'ble Mr. Gokhale has himself indicated how it would be difficult to draw them from the district. For he has said that the district is too large an area for the District Board. The position then is that although in the case of the District Board, the area is too large for the people to deal with it, although these people are drawn from that district and presumably have a considerable amount of information and are interested in local matters and have local knowledge and come to the headquarters to meet, yet while the district is too large for them it is not too large an area for the nine persons who have been associated together and are found, from I know not where, to fill this Collector's Council.

"Then, Sir, I am sorry to take up the time of the Council, but I am bound to confess that in all the speeches I have heard so far, there has been no attempt whatever to go to the bed-rock of actual facts and details. Every one has talked about how nice it would be to have a Council like that and how nicely improvements would be brought about, but, with the exception of Mr. Gokhale, not a single person has yet indicated the details of business. I think it is very important, considering that all those speakers who have gone before me have argued about this Council in such detail, that I should take them with me through the details which Mr. Gokhale alone of all speakers has discussed. These details are to be found in his statement before the Decentralization Commission. And I may add that it is hardly correct for him to say that the Decentralization Commission took a biased view of the matter. It was very prominently before the Decentralization Commission. The Hon'ble Mr. Gokhale himself indicated that there were many witnesses and that the subject was pretty fully threshed out, and what was not indicated and what I know to be a fact, there were two members of the Decentralization Commission, who started on their inquiry with a strong predilection in favour of Advisory Councils and were led to drop them, and to have nothing more to do with them, as a result of their detailed inquiries, and as a result of the inability of the witnesses to explain to them what it was that these Councils were to do. The only explanation that I have received and the only attempt at detail in the whole of the speeches or elsewhere is to be found in Mr. Gokhale's own statement which is printed in this book (Decentralization Commission Report). Well, first there are *legislative proposals*. But, Sir, it seems to me that as regards legislative proposals, it is already open to any one to express his opinion. He can send it through the Collector if he pleases, or through the Commissioner or through the Local Government. He can use his representatives in the Provincial Legislative Council or here. He can send up his proposals and he has every opportunity

of having his voice and opinions heard, and no useful purpose whatever can be served by attempting to thresh out these legislative proposals in the Council of the Collector. The Collector has a great many other things to do than to spend long days in discussing legislative proposals in his Council, when the whole matter with the various suggestions and criticisms which may be put forward before his Council may all be treated as waste paper in another place.

"Then there is a group of three subjects which it is proposed the Collector should discuss in his Council, *viz., the revision of settlements, the revision of water-rates and recommendations about remissions of land-revenue*. Now all these three subjects require most intimate local knowledge—local knowledge which is to be obtained on the spot. You have to ascertain at first hand in the villages the opinions of the raiyats and landowners who live in the locality to which these remission proposals, or these water-rates or whatever it may be, relate. You cannot get any useful criticism from persons who live in the headquarters of the town, and, for aught we know, possibly know little or nothing about agriculture or irrigation.

"*Creation of new Municipalities.*—This is a matter which is properly left by the law to the inhabitants of these towns to move in or to make their representations, and there is no more reason why these nine persons at headquarters should be able to form a better opinion as to whether there should be a municipality in a particular town which none of them may ever have visited than the Collector himself or his trustworthy officials whom he may have deputed to inquire. Then there is *the extension of the operations of Acts to new areas*. This is such a very general term that it is impossible for me to say definitely what is meant by such a class of business. It may be something which is absolutely beyond the ken of this District Council or it may not; I cannot say. But it is highly improbable that these particular nine men should be generally capable of forming a definite opinion upon such a point. Then we come to the *imposition of punitive police*. Well, Sir, I am astonished at this suggestion. The Collector, as Mr. Gokhale himself said, should have very full power in the matter of keeping the peace, and if there is a question of placing a punitive police in any particular locality, the proper method of doing it is not to consult the few persons at headquarters who have never been to that locality and know nothing whatever about it, but to examine the record of crimes that come from that locality, to consider the reports of the police if necessary and to depute a Magistrate to that spot to make an inquiry, or, if you are not satisfied with these, to go yourself and make inquiries in that town from neighbours of that town and get your information direct. What you could possibly gain by asking these nine persons at headquarters as to whether a punitive police force should be established at a place fifty miles from headquarters, I cannot imagine.

"Then there are other matters which Mr. Gokhale would have the Collector dispose of himself if he could carry his Council with him—*the opening and location and abolition of liquor shops*. Well, Sir, we are making certain experiments, and feeling our way on the question of local option. There is no doubt about what local option means. It means that, in any town or village, persons who live in that town or village should be consulted as to the location of their liquor shops or as to whether there should be a liquor shop or whether there should not be. All this is embraced in the proper significance of local option. Is it possible for the few persons at the headquarters of the district to tell whether or not a liquor shop should be placed in a particular village? Their opinions may be described as local option at the actual headquarters of the town, and in these cases we are instituting a special committee for that purpose and are inviting the opinions of the local municipalities. Then there are other matters such as the *levying of building fines or city survey proposals*. Well, these are matters which the municipalities are able to deal with, and I do not suppose that the Collector himself would be able to deal with them except in individual cases and in carrying out actual rules; if it is a matter of framing rules, it will have to go to the higher authorities. What is the good of asking these nine persons to frame them?



"Then I notice among the subjects *the opening and closing of schools*. Well, this point was put before the Decentralization Commission and it was fully agreed that if these powers were not reserved for the Collectors they should be left to District Boards. "But if these powers were reserved in the Collector's hands and if he is to seek the advice of anybody, then he must have the advice of District Boards, who are charged with the general supervision of education in rural areas.

"In the case of the *suspension of municipalities and of panchayats and unions*, it will be necessary for the Collector to send the case up for the orders of the Commissioner or the Local Government. He is very seldom likely to have the power of suspending bodies of this sort; but there is one thing that I am very certain of; that if Mr. Gokhale's proposal were to be carried out, the Municipalities or the Taluka Boards which would be suspended would strongly resent the authority of these nine people, if they thought that it was owing to these nine persons that the municipality had been suspended. Then as regards *rules regulating fairs and processions* I need not trouble the Council with these. Fairs, processions and matters of that sort are very urgent matters and they often give rise to bad blood and partizanship. You cannot avoid these. You must have a Collector independent for matters of this kind. Then there is the *assumption of management by the Court of Wards* which is one of the Collector's duties, and which he does under supervision from above. I cannot think how this proposed Council could advise him in such matters. We are now dealing with individuals, and whether the law should be applied in individual cases. There may be many interested persons opposing the application. Will the Advisory Council of Mr. Gokhale be in a position to give advice as to these individual cases, and will not that advice be resented? Many of these individual cases are urgent matters, and can these cases be kept over for the Council and solemnly voted upon? I think it is out of the question and impossible.

"Then, Sir, there is another objection, and this is in fact a very grave danger that attaches to Mr. Gokhale's proposals. Supposing that we have this Council and that we have got just ordinary men, such as we could pick up in a Municipal Committee at headquarters, and supposing we have a very strong Collector, I feel fairly sure that the Hon'ble Member would deprecate altogether a Council which merely registered the Collector's decrees. No advantages would be gained by a Council of that kind. Suppose however that we have a weak Collector and that his Council, or what is much more probable two or three members of it, obtain an ascendancy over the Collector; or, what is still more likely, are believed by the people to have obtained such an ascendancy. Do not the Members of the Council see what dangers lurk in such a contingency? I appeal to any Hon'ble Member in this Council who is in any way acquainted with the atmosphere that prevails in a mufassal town to bear me out when I say that that Council—I will not mince words—would become a hot bed of intrigue, and the consequences on district administration too appalling to contemplate.

"Now, Sir, I have attacked with considerable vigour the Hon'ble Mr. Gokhale's proposal, and I have shown why I consider that neither are the men available nor the subjects of business which could fitly be entrusted to the men; and why I consider that dangers lurk at every turn to the good administration of the district if this scheme were adopted. I am a firm believer in the Collector seeking advice of the people, and the people understanding the Collector. To secure this touch he must be mobile; he must be able to select advisers on the hundred subjects from every class and every locality where they are best available. He wants to get the opinion not of this Council round the table on which Mr. Gokhale sets such great store, but the opinion of men in the street, opinion of men in the village, and sometimes even the opinion of men in the jungle. These are real opinions obtained from first-hand knowledge, and these are the opinions that he will not find procurable at the round table which the Hon'ble Mr. Gokhale contemplates. But I should like this Council to understand fully that I value enormously the advantages of corporate responsible opinions in their proper places. Here in this Council we have the opportunity of recording the opinions of the educated classes. This is the place where they

can advise on our policy. This is the place where they can be of immense good to the country—in Imperial matters it is from the members of the Imperial Council, in Provincial it is from the members of the Provincial Council; but we come down to the district and to the Collector; if we are going to look for help from corporate collective advisers, it must be from the District Boards and Municipalities that we must look for it. We shall get our help from the men most concerned by constantly going among them, but if we are to consider opinions recorded after deliberation, we must seek for it from Municipalities in all urban matters and from the District Board in all rural matters. These are the institutions that I should like to develop; these are the plants that we should water and tend, and that is the right way to develop fully the local self-government instituted now nearly thirty years ago by Lord Ripon's Government. That is the path which we should follow and not be led away on to side-roads however attractive they may be made by the Hon'ble Mr. Gokhale's persuasive eloquence.

"Sir, the Hon'ble Mr. Gokhale has quoted me in support of his Resolution. Four years ago as Chief Commissioner of the Central Provinces, I put a note before the Decentralization Commission. I may state that when I wrote that note, it was not intended for publication. I was stating my opinion and to some extent my prophecy as to how things might develop. The question of Advisory Councils of all kinds was in the air, and the District Councils to which I referred in that note were not the District Councils of Mr. Gokhale's scheme, but those District Boards that we have already established and of which the foundations have been laid. These were to be the sources from which eventually, if ever, Advisory Councils were to spring, but I contemplated rather that these Boards should themselves become not the Advisory Councils which Mr. Gokhale contemplates, but the agency for doing things themselves and not for advising the Collector how they should be done. And that is what I still think will be the future development, not by giving a number of advisers—very often irresponsible—to executive officers like the Collector, but as time goes on for the Collector to divest himself of various functions and hand them over to responsible bodies like the Municipalities and District Councils. That is the line on which as far as my humble opinion goes affairs will develop.

"Well, Sir, as the Hon'ble Mover himself has said, he only wishes this Council to be advisory *to begin with*. This Council of nine men when we come to look to Mr. Gokhale's proposals we find that so far from being advisory to begin with, they are very largely Administrative Councils, and that is the view which has been taken by many Hon'ble Members of this Council—they want not Advisory but Administrative or Executive Councils. Well, Sir, I have said enough to show that Collectors and executive officers will not be rendered more efficient by a Council of this kind; but that if local matters are to be referred to any body, it must be local bodies and that the hope lies in them; but in case this Council desire to pass this Resolution in agreement with the Hon'ble Mr. Gokhale, I should like it to feel not only what this Collector's Council might be *to begin with*, but what it might become *to end with*. I fear myself that the nine Councillors intended by the Hon'ble Mr. Gokhale as nine muses to inspire the Collector would end by becoming nine millstones round his neck. If that should come to pass, we might as well do away with the unfortunate Collector altogether. Now, Sir, the Hon'ble Mr. Gokhale has not repeated what he has said in his evidence before the Decentralization Commission, and it may perhaps interest you to know before you agree to his Council of nine. Under his scheme you would already have succeeded in abolishing the post of Commissioner, and there would be no one left between the Local Government and the Collector.

"If I have been able to convince Hon'ble Members here that the Collector would also go, I should very much like to know what the opinion of the Council will be. I hardly suppose that the Hon'ble Mover himself contemplates this result absolutely with equanimity. I do not think that the Council will do so either, and I am perfectly sure that any such idea as the elimination of the Collector or the emasculation of his power would be viewed with the utmost consternation and concern by the masses of the people, to whom the impartiality of the Collector,



and I may add, his independence, is the very sheet anchor of their trust in British administration. As far as Government is concerned, I can only say that if this proposal, as devised by the Hon'ble Mr. Gokhale, were carried out and carried to its logical conclusions, it would undermine the executive power of the Government, and it is quite impossible therefore that the Government of this country can contemplate for a moment its executive powers being undermined."

**The Hon'ble Mr. Madge :** "Sir, I wish to speak very briefly on the initial stage of the proposal for Advisory Councils. It seems to me to be an attempt to extend into the executive administration a process that is on its trial in the courts of justice. I am not so sure that the system of assessors who merely give their opinion has proved an entire success,—I have heard some very experienced officers declare against it as one of the farces of judicial administration; but, even if it had been a success in judicial trials, that would have proved no ground for extending the same system to the executive administration. After all that has already fallen from the Hon'ble the Home Member I have very little to say about the elective system and about the analogies drawn from foreign countries, but I think that I should emphasise the fact that analogies drawn from foreign countries are inapplicable to India for reasons which it is astonishing to find have been entirely overlooked in the discussion to-day. The district officer in this country stands as an umpire between a number of divided interests such as do not exist in any other country in Europe, where you have homogeneous populations and self-government naturally developed under no such difficult circumstances as those existing here.

"It is because there are divided interests that have not been reconciled that the district officer is an umpire who is thoroughly trusted on all sides. Those who have any special knowledge of the mufassil know that he is sometimes a single European standing between hostile parties.

"Then, Sir, it is said that Government is pledged to the elective system. The Hon'ble the Home Member has pointed out the true line of development for local self-government and most thoughtful minds will agree with him that that is the only safe line to be taken. Whether the elective system is the wisest way of securing representation is fairly open to question. I have heard a popular Chairman of the Calcutta Corporation, which may be said to represent election in its most advanced state, say, when a commissioner was boasting of being a representative of rate-payers—that some "representatives" were simply representatives of garriwalas, because it was found that in the course of one election a man was actually returned by not more than a carriage stand. Generally, the rate-payers do not take any interest in what is going on. I do not say, Sir, that we have not able men either in the Corporation or elsewhere, but I believe that first class men have been brought by accident or by Providence to the front, in the mufassil as well as in Calcutta. So far as the elective system goes, in my humble opinion, it is one of the most defective means of helping the Government in the country. What should be substituted in its place I cannot say. I do feel very strongly that in the mufassil as in Calcutta the elective machinery ought to be very quietly watched before we extend this system of election which it has been shown to be in some cases a perfect sham.

"Then, Sir, our attention has already been called to the first-hand knowledge of the district officer. He possesses an intimate knowledge of every part of his district. I very much fear that the system of scientific rule has developed among the educated classes of this country a new class of foreigners who are really cut off from the masses. I confess that I firmly believe in the principle that it is the interests of the ignorant and the helpless masses that have to be considered first of all; and so far as the district is concerned, I do not know that any man is better acquainted with the poor in the remote villages than the district officer. There are many Indian gentlemen who live at head-quarters stations but have probably never visited the interior, and even where they have gone they are not invested with the authority of the district officer who has unequalled opportunity of acquiring first-hand knowledge.

In speaking last year about the danger of separating the judicial from the executive, I tried to show in my humble way what valuable knowledge the district officer acquired within the first 10 or 12 years of his experience in his joint capacity of executive and judicial officer by knocking about and coming to know the least known places as they are never known and never seen by persons at a distance. I think, Sir, that I have said enough to show that there is a great deal of danger in the new experiment and no sufficient grounds have been shown why it should be carried out."

**The Hon'ble Mr. Mazarul Haque:** "Sir, I do not want to detain the Council after four o'clock, which is the statutory limit of our sitting. But, I should be failing in my duty if I did not say a few words in support of the Resolution of the Hon'ble Mr. Gokhale. I have carefully followed the treatment, rather exhaustive treatment, of this Resolution by the Hon'ble the Home Member, but I must say that I remain thoroughly unconvinced. Sir, if this Resolution be accepted by the Government (which, of course, we all know will not be accepted, as perhaps hardly any Resolution has any chance of being accepted in this Council so long as it is constituted on present lines) it would be of great help to district administrations. It would greatly help the district officials,—many of whom are very well-meaning people, excellent men for whom I have great admiration and great respect and with some of whom I am proud to say that I am on intimate terms of friendship. These gentlemen, when they come to a district, are absolutely ignorant of its conditions and sometimes fall (I do not say always) into the hands of people who are not quite desirable advisers. I shall give an instance which can be borne out by some members of the Civil Service who were then at Chapra to show that if the district officer who was new to the district had really good and reliable advisers, he would not have fallen into the serious error that he did. At that time, I think it was about 7 or 8 years ago, plague was raging fearfully in the town of Chapra. The Civil Surgeon was dead against allowing the people who had died of plague to be buried in the town. On sanitary grounds he was perhaps absolutely correct. As this matter principally concerned the Muhammedans, the District Magistrate asked two of the Muhammedan gentlemen of the town to take the opinion of the Muhammedan gentry and give their advice. Well, these two gentlemen, knowing the views of the Civil Surgeon, gave their opinion that all the burial grounds of the town should be closed at once, and the Muhammedans should bury their dead on the sandbanks of the river Gogra. An order was passed accordingly. Immediately there was a commotion in the town, and the situation was becoming very, very serious indeed. Well, Sir, in those days I was in the bad books of the district authorities, inasmuch as in a plague riot case I had appeared professionally as Counsel for the accused who were alleged to have burnt plague huts, thrashed doctors, and done all sorts of mischief. I had cross-examined the learned District Magistrate rather severely and won my case on the strength of that cross-examination. Well, I was not consulted, but fortunately there was a Joint Magistrate who had been in the district for some time and was a friend of mine. He asked me to go over and see him. I went and he took me to the District Magistrate (I am glad to say that we became very good friends afterwards). I gave him the advice that the order should be at once withdrawn, otherwise there would be grave rioting and serious trouble. Sir, I have given this instance to show that if the Collector had an Advisory Council of the nature proposed by the Hon'ble Mr. Gokhale, there would have been no trouble at all. He would have had independent advisers who would have said to him 'Look here, this is a very serious matter, and you should not act in the manner you are acting'. Unfortunately the two Muhammedan gentlemen wanted to please the Civil Surgeon, and did what they did. My firm conviction is that this Advisory Council will be of immense good to those well-meaning officials who are newly posted to a district, are ignorant of its conditions and therefore are liable to commit mistakes.

"It will also do good, Sir, to another class of officials who are called the strong men of the service. I must say I have never had much admiration for these strong men. They go to an absolutely peaceful district, and by their behaviour



disturb the whole administration. The Advisory Council will control these strong men of the service, and they will not act in the irresponsible manner that they do at present.

"Again, Sir, I strongly support this Resolution, because I have always been of opinion that there is no salvation for my mother-country unless officials and non-officials co-operate with one another. This aloofness which we see now is bad for the Government. It is bad for the people. There should be hearty and sincere co-operation between the officials and non-officials and between the different classes and communities of India. The creation of these Advisory Councils will be a step forward in that co-operation for which I have all along been pleading. Sir, with these few remarks, and I may say that my friend the Hon'ble Mr. Sinha, the other representative from Bihar, also joins me in them, I support the Resolution of my friend the Hon'ble Mr. Gokhale."

**The Hon'ble Mr. Gokhale:** "Sir, I must say a few words now by way of reply to the speeches which have been made in the course of this debate. I will begin with my friend, the Hon'ble Sir Gungadhar Chitnavis, who, however, I hope will forgive me for not dealing at any length with his remarks, because I have only a few minutes at my disposal which I must devote to the Hon'ble the Home Member; and, secondly, with all respect to him, I must say that there was not much in his speech which needs a reply. Sir, it is somewhat inconvenient that members of this Council should make up their mind to oppose a motion and come to the Council with ready written speeches before hearing what the person who brings forward the motion has got to say. Necessarily, when this course is adopted, much of the opposition loses its force, and as my friend, Sir Gungadhar Rao, did not think it necessary to show me the courtesy to listen to what I had to say before making up his mind, that is an additional reason which absolves me from taking any lengthy notice of his remarks. I will just take note of two things that he said: first, that reforms have only recently been granted, and that we should not ask for more now. My friend really seems more anxious to maintain the conservative and non-progressive character of our administration than the authors of recent reforms themselves, because it is well known that those who initiated the recent measures of reform, also had in mind associating the people with the administration down to the bottom; in what form this was to be done, they left to the Decentralization Commission to recommend. If my friend will only look at the terms of the reference that was made to the Decentralization Commission, he will find that the Secretary of State did ask the Commission to recommend what measures could be adopted, whereby the people of this country should be brought into closer touch with the administration throughout. My friend thinks that perhaps the utmost that might be tried, is to have Divisional Councils in a few selected Divisions. Even here he has modified his position as compared with what it was before the Decentralization Commission, because his proposal about Divisional Councils had no such qualifications then, as he has today sought to add. My friend does not see why there should be District Councils. Sir, a district is the unit of administration in this country and not a Division. A Divisional Council will only be a smaller edition of the Provincial Council and will not meet any of the requirements I have mentioned. We want a Council to be associated with the officer, who is primarily responsible for the affairs of a district. My friend expressed a fear of some members proving obstructive. Now in bodies that are purely advisory, no great harm can be done even if anybody is obstructive. The utmost that may happen is that the time of the Board will be to some extent wasted; but we might, I think, well depend upon the common-sense of the other members to see to it that that sort of things does not last for long. There might occasionally be a little obstruction; if you will only assume average reasonableness on the part of the men, elected or selected, this fear of obstruction need not trouble us. I will now turn to the speech of the Hon'ble the Home Member. Sir, the Hon'ble Member spoke, no doubt, as he has himself told us, with great vigour, but whether he spoke with convincing vigour I must leave to the Council to decide. Personally, Sir, I am not at all convinced by what he said. On the contrary, I must say I am puzzled, I am

surprised—indeed, if I may use the word which he himself used—I am astounded at the line he has adopted in the course of his reply. The Hon'ble Member began by promising to smash, to shatter, the pretty, pleasant picture which he said I had drawn up for the amusement of the Council. The Hon'ble Member has certainly smashed many pictures, but they were not of my drawing; they were fancy pictures of his own. Sir, I feel bound to say—I think I am entitled to make the complaint—that from one in the Hon'ble Member's responsible position we expect more care to be taken as regards the accuracy of the statements which he attributes to others. He attributed to the supporters of this motion all manner of statements which none of us had ever made. I, for one, never made any of the statements that he attributed to me, so far as I can recollect. He said we spoke in terms of the utmost contempt of District Boards and Municipalities. Now I assert that I did not say a single word about these bodies that could be construed into any kind of contempt."

**The Hon'ble Sir Reginald Craddock :** "I beg the Hon'ble Member's pardon. I never said a word about contempt. What I said was that the way they omitted any references and put them aside as being unworthy of consideration almost amount to contempt."

**The Hon'ble Mr. Gokhale :** "Well, Sir, that is because the Hon'ble Member has not really cared to understand our proposal. The Municipalities exist for certain specific purposes; the District Boards too exist for certain similar specific purposes. We propose to bring into existence another body for certain other purposes. It is true that I referred very briefly only to Municipalities and District Boards. But that was because we have all to speak within certain time limits here—and, as a matter of fact, I was speaking against time when I came to that part of my speech—and so, though I had intended saying more on the subject, I could not do so for want of time. But surely because we did not speak at great length about Municipalities and District Boards, the Hon'ble Member is not justified in calling our attitude an attitude of contempt or one bordering on contempt. Then, Sir, the Hon'ble Member spoke of our saying that there were no educated advisors available to the Collector; but who ever said such a thing? We all know that there are Deputy Collectors and others under the Collector. They are all men now of good education. And none of us said that educated men were not available for consultation. What I said at the beginning, what I said in the middle, what I said at the end of my speech was that what we wanted was non-official association with the Collector. There are plenty of officials to advise him, and he depends daily upon their reports; that, in fact, is our complaint, namely, that the whole administration is bureaucratic in character, based upon reports received from below and carried on under orders received from above. Now we want things to be less like a machine working automatically, and more like an institution which concerns itself with human beings, who have to be interested in the work that is done. I frankly stated in my speech that one of the objects that I had in view in bringing forward this question was to give some sort of interest to the people of the district in the administration of the district, so that, as one result, unfair and irresponsible criticism might become less and less. Sir, the Hon'ble Member, in referring to a quotation which I had made from Woodrow Wilson, said that I had abruptly stopped quoting, probably because what followed was inconvenient to me. Well, Sir, the Hon'ble Member might have adopted a little more charitable attitude towards me. He saw that I was speaking against time, and he might have assumed that I stopped where I did, because what followed did not concern my argument. However as the Hon'ble Member has thrown doubt on what I did, I will, for the edification of the Hon'ble Member, read the portion which I did not then read. I will read that portion, and will then, if he likes, pass the book on to him, so that he may verify the quotation. The portion is as follows :—

'More important than its administrative functions are the judicial functions with which it has been recently invested. Since 1883, the District Committee has been the administrative Court of the District. When acting in this capacity, the Committee is presided over by its judicial member, and the President of the administration does not sit with it.'